

PROCEDURE

Non-Australian Worker Procedure

The current controlled version of this procedure is located on RSG Network IMS Folder. All other printed copies of this procedure are to be considered uncontrolled and should be validated against the current controlled version on the RSG Network IMS Folder before use.

Document Review Record				
Document No. and Name		HR-PRO-011 Non-Australian Worker Procedure		
Rev No	Description	Prepared by	Checked by	Date
0	New	C Simpson	L Strappazon	14.06.2016
1	Amend to suit current process	A Forrest	L Strappazon	09.07.2018
2	Review	M Vorpapel	D McNeil	23.09.2019
Electronic approval by:				
Name:		David McNeil		
Position:		Operations Manager		
Date:		23.09.2019		
This document is the property of Reay Services Group. It must not be copied or reproduced in any way whatsoever and/or passed on to any third party without authority.				

TABLE OF CONTENTS

1	PURPOSE	2
2	SCOPE	2
3	DEFINITIONS	2
4	PROOF OF CITIZENSHIP OR PERMANENT RESIDENT STATUS	2
5	CHECKING IF A NON-CITIZEN HAS PERMISSION TO WORK	3
	5.1 Visa Entitlement Verification Online (VEVO)	3
	5.2 Using a contractor or labour supplier	4
	5.3 How often should a check on visa details be done	4
6	ALTERNATIVE EMPLOYMENT ARRANGEMENTS	4

1 PURPOSE

Australian employers could face infringements or civil penalties if they allow illegal work regardless of whether they knew someone was an illegal worker. We expect employers to take reasonable steps to make sure they are not employing, referring or contracting illegal workers.

2 SCOPE

This procedure sets out a range of steps RSG can take to make sure we are complying with Australian obligations.

3 DEFINITIONS

Company / the Company: Refers to Reay Services Group and associated entities.

Illegal Worker: An illegal worker is a non-citizen who is working without a valid visa or working in breach of a visa condition. Not everyone who comes to Australia on a visa has permission to work.

Legal Worker: Australian citizens, New Zealand citizens and Australian permanent residents are legal workers and have unlimited permission to work in Australia.

Some Australian visas have work limitations that could include not being able to work at all or only being able to work with a certain employer or a specific number of hours.

An Australian visa holder who is not in breach of their visa conditions is also a legal worker.

4 PROOF OF CITIZENSHIP OR PERMANENT RESIDENT STATUS

A single check confirming citizenship or permanent resident status at the time of employment is all that is required.

To confirm Australian or New Zealand citizenship an employer can sight:

- Australian or New Zealand passport
- Australian birth certificate and a form of photo identification
- evidence of Australian citizenship and form of photo identification
- certificate of Status for New Zealand citizens in Australia and a form of photo identification.

To confirm permanent resident status, an employer can sight:

- certificate of permanent resident status and a form of photo identification
- a passport issued by the government of another country along with a check using Visa Entitlement Verification Online (VEVO).

In the absence of a form of government-issued photo identification, an employer might choose to sight as many of the following supporting documents considered necessary to confirm identity:

- confirmation of enrolment to vote in Australian state or federal elections
- Medicare card
- driver's licence / taxi licence
- tax file number
- references from previous employers
- tenancy agreements or home ownership details
- tertiary qualifications certificate
- trade certificate
- change of name certificates (if applicable).

Note: The above documents do not provide evidence of permission to work - copies of any sighted documents MUST be kept in the employee's record.

5 CHECKING IF A NON-CITIZEN HAS PERMISSION TO WORK

RSG is to take reasonable steps, at reasonable times, to confirm that a non-citizen is allowed to work.

If an employer has reason to believe a worker is a non-citizen, they need to check the non-citizen's visa does not have work restrictions.

The preferred method of checking visa details is to use the free online service [Visa Entitlement Verification Online \(VEVO\)](#).

5.1 Visa Entitlement Verification Online (VEVO)

VEVO is a free online government service and is the preferred method of checking if non-citizens have work restrictions on their visa. VEVO checks can be used as evidence that reasonable steps have been taken by an employer to check that a non-citizen is allowed to work.

Employers can register as a VEVO Organisation and see the following information for non-citizens:

- the type of visa the person holds
- when the visa was granted and when it will expire
- if the person has unlimited right to work, no work right or work restrictions.

The employer must check VEVO themselves, or have received a VEVO email response. Viewing a copy of VEVO results conducted by a third party or a printed copy held by a non-citizen is not sufficient as these could be forged or be out of date.

VEVO maintains records of all checks including when the check was conducted, the result, who conducted the check and who it was conducted on.

VEVO does not confirm a person's identity. Employers need to confirm identity by sighting identification documents and make sure these match the VEVO details.

VEVO email

Employers can ask the non-citizen to send their current visa details directly from the department's VEVO email. A non-citizen can do this when they access VEVO as a visa holder, using one of the following reference types and their date of birth, passport number and country:

- visa transaction reference number
- visa grant number
- visa evidence number
- password.

VEVO error messages

There are many reasons why an error message might appear but the message will explain what options are available.

If VEVO returns a result that a person's visa details could not be found, this could mean:

- that wrong details have been entered. For example: i.e an 'O' has been entered instead of a zero '0', date of birth entered in reverse order or passport details need to have machine readable zone number entered (10 digits instead of 9 digits)
- that person is a New Zealand citizen currently outside Australia
- their visa has expired.

Further information on VEVO error messages is available in the VEVO Help and Support page.

If VEVO is unavailable, an employer should record the non-citizen's passport and/or visa details so they can check the visa details when VEVO is available. An employer should also record the date and time that VEVO was unavailable. Keeping records such as these are considered reasonable to show an employer taking steps to check visa details.

5.2 Using a contractor or labour supplier

Employers can still be held responsible for hiring illegal workers even if they use a contractor or labour supplier to source their workers. However, employers can avoid being penalised by adding a clause to their contract or by specifying in writing (an exchange of letters) that the supply of labour includes only legal workers.

Employers might want to seek independent legal advice in relation to use of the sample wording and clauses to ensure compliance with the Migration Act 1958 and other relevant law, as amended from time to time.

5.3 How often should a check on visa details be done

Checks should be conducted before a non-citizen commences work, before their visa expires and when the non-citizen's circumstances change.

If a non-citizen is a bridging visa holder and VEVO does not show a visa expiry date, it is good business practice to check every three months that the non-citizen still has permission to work.

6 ALTERNATIVE EMPLOYMENT ARRANGEMENTS

Individuals and companies are responsible for employing legal workers even if they are sourced from a referral agent or labour supplier.

This includes alternative employment arrangements such as bailment, contracting and subcontracting that are common in the taxi, construction, hospitality, cleaning and sex industries.

Employers should take the steps outlined in this procedure to avoid penalties.