

### Can you afford a £10,000 fine per illegal employee?

Recent changes to the Law mean that employers face stringent new penalties for employing workers who do not have the right to work in the UK, even if done innocently. There were over 80 immigration employment related categories, this has been narrowed down to 5 tiers under the new Points Based System ('PBS'). The Government's idea is to simplify the system and to limit the number of workers who can enter the UK.

You should check the entitlement to work in the UK of **every worker**, irrelevant of their make-up (race, ethnic or national origin, colour or nationality). If you do not, then a possible claim for discrimination may be brought against you.

Employers can continue to employ those workers who are not subject to immigration control and are employable without restrictions, who in broad terms are: British and Irish citizens and commonwealth citizens with a right of abode in the UK, European Economic Area nationals and Swiss Nationals and their family members.

Anyone else is subject to immigration control and they will need to consider their immigration status if they wish to work in the UK. There are lawful routes to employment via the PBS. This could mean that you as the employer will have to become a licensed sponsor. As a sponsor you will need to issue individual certificates of sponsorship to employees. If you become a licensed sponsor there are strict duties upon you in terms of recording keeping and reporting. You will be responsible for the actions of your employees who purport to act on your behalf. You must ensure that you will not employ anyone without permission and cease to employ anyone whose permission has lapsed.

Unless you make the relevant checks, (which could provide you with a defence or excuse) you risk breaking the law and receiving a civil penalty of up to **£10,000 for each** illegal worker. You must pay this within 28 days of receiving the notification of liability, unless you object, appeal or request a payment plan. Not only will this damage your finances, but also your reputation. The Home Office UK BA will publish details of employers who have been found liable.

**Jayne Harrison, Sophie Attfield, Peter Lawson and Paul Brill**

To speak with anyone in the Employment Team please enquire at any office or call 01775 725664

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Additionally, there is a criminal offence of knowingly employing an illegal migrant worker. This carries a maximum custodial sentence of 2 years and/or an unlimited fine.

It is vital if employers are to avoid falling foul of the Law to put systems in place. The overwhelming majority of employers and migrants want to get it right. We are keen to support them and to make this process as simple as possible. Such matters require attention to detail and speed. We have the available expertise and resources to help.

Chattertons has a Business Immigration Department which is headed by a Partner Edward Conway, with the assistance of Rebecca Birkett who is a Trainee Solicitor. We advise on all aspects of Immigration law.

For advice on employing migrant workers please contact: **Rebecca Birkett** at Chattertons Solicitors, 4 South Square, Boston, Lincolnshire or on **01205 310025** or by e-mail [rebecca.birkett@chattertons.com](mailto:rebecca.birkett@chattertons.com).

[www.chattertons.com](http://www.chattertons.com)

### Meet the Team



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