

# COMMERCIAL IMMIGRATION

# LAW



> Immigration law is a very specialised area and it is important to choose the right lawyer and firm for you, especially since our Immigration laws, rules and guidance change constantly and often dramatically.

## > Examples of what may constitute an **ILLEGAL WORKER**



> Students with **expired visas**, or students working more hours than they are allowed.



> People who work on a general **visitors visa**.

> As an employer, you have a responsibility to prevent illegal working in the UK by ensuring that your employees have the right to work.

**YOU CAN BE FINED UP TO**  
**£20,000**  
**PER PERSON FOR**  
**EMPLOYING**  
**ILLEGAL WORKERS**

## > What are the **PENALTIES?**

If you are caught **employing** an illegal worker



> You may get a **'referral notice'** to let you know that:



> **Your case is being considered by officials to consider your liability** you may get a fine (also known as a civil penalty) of up to £20,000 for each illegal worker.



> You won't have to pay a fine if you can show a **valid reason** for employing an illegal worker. i.e. you may have a statutory excuse.



> You may be sent a **'civil penalty notice'** if you are found liable and **you will have 28 days to respond**.



> The penalty notice will give you your **payment options** and will tell you what to do next. It will also tell **you how to appeal** if you want to.

> Your business details may be published by Immigration Enforcement as a warning to other businesses not to employ illegal workers.



> You can be sent to jail for up to **2 years** and receive an unlimited fine. If you are found to have **'knowingly employed'** an illegal worker.

## > **BASIC RULES** for checking the **RIGHT TO WORK**

Basic rules on how to check every employee's (whether British or not) right to work and have a statutory excuse. You may like to **follow** these suggested **steps**, as they may help you to establish an excuse and defence against a fine.



> **One**  
Have you been shown original document(s), which fall into the Home Office prescribed lists known as A or B?

### **Example documents**

- > Passport showing the holder, or a person named is a British Citizen, citizen of the UK & Colonies having the right of abode or an EEA National.
- > A current Biometric Immigration Document
- > A full birth or adoption certificate issued in the UK along with evidence as to their NI.
- > A certificate of registration or naturalisation as a British citizen along with their NI.
- > A current Immigration Status Document endorsed with indefinite leave along with NI evidence.



> **Two**  
Copy the correct parts of the document presented.

(Passports: personal details including nationality, leave expiry date, document expiry date, DOB, signature, photograph and information indicating entitlement to enter/remain and undertake the work in question. All other documents must be in full).



> **Three**  
Check that it is not reasonably apparent that the individual who presented the document is an imposter.



> **Four**  
Check that it is not reasonably apparent that the document presented is false.



> **Five**  
Check the document allows the individual to carry out the work on offer.



> **Six**  
Check that the document copied and/or the positive verification notice has not expired.

## > For applicable **WORKERS**



> **Seven**  
(For students only) Check you have been shown details of their academic term and vacation times covering the duration of their period of study for which they will be employed. This could dictate what hours they work.

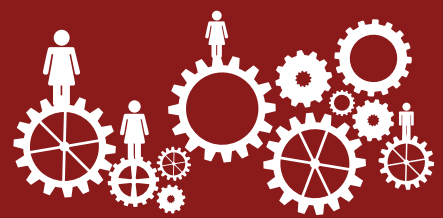


> **Eight**  
Check that you have been shown copies of supporting evidence for the reasons for any different names across documents (e.g. marriage certificate, divorce decree, deed poll).



> **Nine**  
Retain clear copies of the documents, record the date the check was made and diarise repeat checks. **Remember if a list B document is prepared a repeat check needs to be done.**

## **WHAT BUSINESSES CAN DO TO AVOID PENALTIES?**



> If you actively co-operate with the Home Office during an investigation of your compliance with the law or have reported a suspicion your penalty for each worker may be reduced by **£5,000**

For more information contact Rebecca Bridges on [rebecca.bridges@taylor-rose.co.uk](mailto:rebecca.bridges@taylor-rose.co.uk)

