



Eatons

Employing Illegal Migrant Workers

New measures designed to tackle illegal migrant working came into force on 29 February 2008.

A code of practice is now available containing guidance on the civil penalties for employers. This contains information on how the level of penalty may be determined and on the documents required for the purpose of establishing the statutory excuse. It can be found on the website of the Border and Immigration Agency at <http://www.bia.homeoffice.gov.uk/>

These measures, contained in the Immigration, Asylum and Nationality Act 2006, include:

- A system of civil penalties for employers who employ illegal migrant workers – the maximum civil penalty per illegal worker is £10,000;
- A new criminal offence for employers who knowingly employ illegal migrant workers – this offence now carries a maximum two year prison sentence and/or an unlimited fine; and
- A continuing responsibility for employers of migrant workers with a time-limited immigration status to check their ongoing entitlement to work in the UK.

The new measures do not significantly alter employers' responsibilities. Employers were already required to check a prospective employee's right to work in the UK in order to establish a defence against conviction for employing an illegal migrant worker. Under the new measures, employers can obtain a statutory excuse from payment of a civil penalty if they have carried out the required checks on a prospective employee's documents. In addition, employers are required to undertake repeat document checks, at least once a year, for those employees who have limited leave to enter or remain in the UK, if they are to retain the statutory excuse. However, the excuse will not apply where an employer knowingly employs an illegal migrant worker.

For advice on all aspects of employment law please contact Maureen Singleton, Head of Corporate and Employment Department, on Tel: 01274 728 327.

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