

Introduction

Immigration, and especially eligibility to work in the UK have been increasingly hot topics over the past couple of years with adverts on the radio and other similar campaigns, but what does it mean for employers.

Legislation covering Immigration

Nationality, Immigration and Asylum Act 2002
UK Borders Act 2007

How to I avoid employing an illegal worker?

The important thing to remember is that fraudsters can be very clever so some can still slip through. You have to show to the Home Office that you are doing everything you can to avoid inadvertently employing illegal workers and definitely not deliberately employing them.

Appropriate Recordkeeping – Due Diligence

Records to be kept are as follows:

New Recruits:-

- Candidates to provide original passport or other suitable documentation
- Photocopy the front cover, the picture page and other relevant stamps or visas
- Sign and date the copy
- File in personal file for individual

Current Employees:-

- Write to all employees explaining that they need to bring in appropriate documentation
- Explain that employers have a legal obligation to keep such records
- Explain that failure to provide appropriate documentation may result in disciplinary action and ultimately dismissal.
- As above, take copies, sign and date copy and file.

In addition, we would recommend that some form of database or spreadsheet be maintained to ensure that, any employee holding documentation such as a visa with an expiry date, be followed up to make sure they remain eligible.

Example documentation

List 1

UK Passport
UK Birth Certificate
ID Cards
EEA Passport or Other Passport

List 2

Visa – Working
Visa – Holiday Working
Visa – Highly Skilled Migrant
Visa – Spouse
Visa – Family
Visa – Student
Indefinite Leave to Remain
Workers Registration Certificate

Spotting Forgeries

Fake passports, NI Cards, Driving Licences as well as credit cards are big business. You must not knowingly take on someone who you believe is not who they say they are. Photo ID is the best form of identification. If in doubt, don't take them on.

- check any photographs to ensure that they are consistent with the appearance of potential employee;
- check the dates of birth listed to ensure these are consistent with the appearance of your employee;
- check that appropriate expiry dates have not been passed;
- check any United Kingdom Government endorsements e.g. stamps to ensure your employee is able to do the work offered;
- Look at watermarks, holograms and other 'security' features.

The Penalties for Employing Illegal Workers

The penalty for either deliberately employing illegal workers or failing to keep effective records to ensure you are not employing illegal workers is currently £5,000 per illegal worker. In the changes to the legislation proposed for 29 February 2008, this may increase to £10,000 per illegal worker.

Can We Help?

As part of an HR Audit HR Insight can review the eligibility status of all your employees. If you need help with eligibility or you are experiencing any issue associated with the employment, performance or conduct of employees, please call us on **0845 603 1610**. Alternatively visit our Website at www.hrinsight.co.uk. We look forward to hearing from you!