

#86 HR Newsletter

July 2016: Illegal Working

Illegal Working and how to avoid being fined.

Last week an extension of the criminal offence of knowingly employing an illegal migrant to include circumstances where an employer has "reasonable cause to believe" that a person is an illegal worker. This provision came into force on 12 July 2016.

The penalty for each worker who does not have the right to work is a fine up to £20,000 (per worker) - so this means that you **MUST** carry out proper checks on every new employee to establish their right to work in the UK.

How do I do these checks?

An employer **MUST** follow the 3 step check process - and this must be carried out before their first day of work (usually in response to the employee receiving a job offer):

- Obtain the employee's original documents as prescribed in the Home Office guidance.
- Check in the presence of the employee that the documents are original and valid.
- Copy and keep the documents securely and record the date of the check and date for follow-up checks.

The documents that are required to be viewed to prove residence are:

1. A UK/EEC passport, or if they do not have a passport
2. A birth certificate showing one of their parents' names and address AND a government document showing their NI number (e.g. P45, P60, P11D, child benefit statement, job seeker allowance statement etc.)

These are the most common ones, the full list of documents that can be used can be found on the Gov.uk website:

<https://www.gov.uk/government/publications/acceptable-right-to-work-documents-an-employers-guide>

With Brexit on the horizon – these checks will become even more important.

Don't get caught out!