

HATCH BRENNER
SOLICITORS



EMPLOYMENT AND CIVIL NEWSBRIEF

PREVENTION OF ILLEGAL WORKING

The Government has laid another minefield for employers. For those employers in the construction, retail, hospitality, travel and food industries, in fact for anyone who employs adults subject to immigration control, new measures came into force on 29 February 2008.

For employers who hire illegal workers criminal offences and civil penalties are introduced under the Immigration and Asylum and Nationality Act 2006. For the more serious offences, for those who knowingly employ illegal migrant workers, a criminal penalty of an unlimited fine and a prison sentence will be introduced.

Civil penalties of up to £10,000 for each offence will be enforced for those who negligently hire illegal workers. The Home Secretary,

Jacqui Smith stated "The new civil penalties are a more effective way of dealing with employers that use slipshod or exploitative recruitment methods."

The Government has published

"The new civil penalties are a more effective way of dealing with employers that use slipshod or exploitative recruitment methods"

Home Secretary
Jacqui Smith

a draft Code of Practice and has identified those documents which are required for the purpose of "establishing the statutory excuse"

The statutory excuse is made out if an employer takes reasonable steps to check the validity of documents no further check will be required.

There is no guidance as to what a reasonable step is and in a second list of documents referred to as "List B" there are further documents that the employer needs to examine at least once every 12 months.

Copies of documents have to be taken and retained and the employer has to check that any photograph or any given date of birth is consistent with the appearance of the employee.

There can be little doubt that the new legislation places a heavy burden on employers and because of the reporting requirements in cases of suspicion it will not lead to easy relationships in the workplace.

The potential consequences to your business if you illegally employ foreign workers could be disastrous. It is vital to act without delay and make sure that the systems you have in place are adequate and if you have any doubt to seek advice from professionals.



Jacqui Smith

CIVIL NEWS ROUNDUP

There have been a number of interesting developments in Civil Litigation the last few weeks. The costs war rumbles along with a couple of notable victories for Claimants. December saw a ruling in *Crane v Canons Leisure* [2007] confirming that law costs draftsman's fees can be treated as solicitors costs and therefore a success fee uplift can be applied to those costs. Conditional Fee Agreements were also in the spotlight in *Gloucester City Council v Evans & Ors* [2008] in which discounted CFAs were approved in principle, although the court should consider the extent of the costs at risk when assessing what is a reasonable success fee.

The Court of Appeal provided a landmark ruling in the case of *Thompstone v Tameside and*

Glossop Acute Services NHS Trust [2008] stating that the annual earnings survey published for care assistants and home carers was a more appropriate and useable index than the retail price index in the context of awards for damages for future care in cases involving catastrophic injuries. This decision has a profound effect on insurers and the NHS Litigation Authority. It may be the subject of a further appeal to the House of Lords. Finally the government has confirmed that it will not follow the lead of the Scottish Government (as reported in our January issue) by reversing the effect of the House of Lords decision in *Johnson v NEI International Combustion Ltd* [2008].



Employment

Whether acting for a large international firm or a local sole trader, you can be assured that we offer unrivalled expertise and comprehensive services. From simple contractual advice to TUPE guidance and from preliminary contentious action to representation before the Employment Appeal Tribunal, we are proud to say that we can be there to address all your Employment needs. All the lawyers in the team are specialists in their field and full members of the Employment Lawyers Association.



Civil Disputes and Accident Claims

We have a well established Civil Litigation department at Hatch Brenner which is headed by Rosemary Escott, partner. For Personal Injury cases we can offer a free initial consultation when we can advise on a range of funding options (including no win — no fee) ensuring each individual client's circumstances are taken into account. We also have specialist legal advisers dedicated to providing an efficient and comprehensive service covering a wide range of commercial disputes including arbitration/mediation/ADR, County and High Court litigation.



Richard Cassel

Head of Employment Department. Richard specialises in all aspects of employment and discrimination law. He is a highly regarded advocate appearing in the Employment Tribunals on a regular basis, and less frequently in the Employment Appeal Tribunal. Richard has been a Part-Time Employment Judge since 1993 and has a considerable experience of Tribunal practice and procedure.

Contact Tel: 01603 214205

Sally Davenport

Sally joined the employment team at Hatch Brenner in 2006. Originally from Cheshire, Sally took a Modern Languages degree at Oxford University, and worked in international banking before pursuing her legal career. She worked as a commercial litigation solicitor with Theodore Goddard, one of the largest London law firms, before moving abroad with her family and developing her own business as a legal translator. Sally is fluent in Spanish, German and French. Since returning to the UK she has completed a Masters Degree in Employment Law at the University of East Anglia with distinction. She is a Fellow of the Chartered Institute of Arbitrators and is an advisor at a local Citizens Advice Bureau.

Contact Tel: 01603 214205



Rosemary Escott

Head of Civil Litigation Department. Rosemary is a Personal Injury specialist in fatal and serious injury claims, arising out of road traffic accidents, accidents at work, clinical negligence and sexual abuse. Member of the Law Society's Specialist Personal Injury Panel since 1995.

Contact Tel: 01603 674539

Mark Fitch

Experienced in a wide range of disputes; enjoys particularly professional negligence claims, contested probate matters and claims against the police. He qualified as a mediator in 2005 becoming one of the youngest members of the Mediators in East Anglia Group.

Contact Tel: 01603 674552



Colin Cook

Colin was previously a partner at a firm in Chancery Lane in London where he dealt with a wide range of personal injury claims for both Claimants and Defendants.

He deals with all aspects of personal injury including road traffic accidents, accidents at work, criminal injuries, trips and slips. He is an Accredited Senior Litigator of the Association of Personal Injury Lawyers.

Contact Tel: 01603 674544

John Cushing

John is well-placed to assess landlord and tenant claims from both perspectives, having acted for either side in a vast number of possession actions, rent collection matters and damages claims. He also deals with other property-related matters including boundary and neighbour disputes, building disputes, and professional negligence claims. He is highly experienced in debt collection, and regularly appears before the district judges in the local county courts.

Contact Tel: 01603 674525



Solicitors

4 Theatre Street
Norwich, NR2 1QY
DX 5237 Norwich 1

T 01603 660811
F 01603 619473
E info@hatchbrenner.co.uk

www.hatchbrenner.co.uk

Employment 01603 214205
Civil Disputes 01603 674552
Accident Claims 01603 674544