

Illegal immigrants can't be employed - but they can be contractors

New legislation intended to stamp out the hiring of illegal immigrants in the UK has ignored contracting. You can no longer hire an illegal immigrant here, but you can sign one up to a contract for services in perfect accord with the law.

"The legislation prohibiting the employ of illegal immigrants does not make it illegal for them to work under contracts of service," says Kerry Garcia, a lawyer specialising in labour and immigration issues at the London-based firm [Stevens & Bolton](#).

Contracting Not Included

"It is very difficult to understand why the Government has not included contracting in its proposed laws to keep illegal immigrants from working in the UK," Garcia adds.

We contractors do worry about immigration, as there is always concern that cheap labour from abroad could cut into demand for our services. So contractors should have welcomed the Government's announced campaign against the employment of illegal immigrants in the UK.

So contractors should welcome actions by the Border & Immigration Agency which is about to launch (on January 14th) a high profile ad campaign warning employers not to take on illegal immigrants. The campaign makes it clear that employers could be liable to fines or even jail under new rules that come into effect in February. The Agency has spent a ton of money on the campaign and you've probably all seen bits of it on TV or in print.

“ The legislation prohibiting the employ of illegal immigrants does not make it illegal for them to work under contracts of service ”

Kerry Garcia-Stevens & Bolton

Security Guard Fiasco

It's clear that this campaign is at least partly in response to the Government's embarrassment over the hiring of illegal immigrants as security guards which came out in Parliament at the end of last year.

So it is astonishing that, with all this concern, the Government has left this widely-used loophole available to companies who work with illegal immigrants. Effectively, companies can keep on using illegals as contractors; they simply cannot hire them as employees.

Contractors Versus Employees--We Know The Difference!

Some legal sources say that there is some difficulty in making the general public understand the difference between a contractor and an employee. Of course, we contractors have had our noses rubbed in this logic by the very same Government which burdened us with [JR35](#). So when people ask you how it is possible for illegal immigrants to work as contractors, you'll be well-placed to explain.

Record Numbers of Illegal Immigrants

According to the Guildford-based research organisation [Migration Watch](#), it is estimated that the number of unauthorised migrants is in the range of 515,000 to 870,000 with a central estimate of 670,000. There have been record levels of immigration to the UK in recent years increasing the risk of unauthorised overstayers, according to Migration Watch.

So it is natural that the Government should try to clamp down on illegal immigrants in the workplace, and we can only applaud those efforts. But, as several legal observers have pointed out, ignoring illegals as contractors leaves a dangerous loophole in the Government's ability to enforce the legislation.

“ It is very difficult to understand why the Government has left contracting out of the legislation ”

Kerry Garcia-Stevens & Bolton

Published: Friday, January 11, 2008

[Tweet](#)

© 2011 All rights reserved. Reproduction in whole or in part without permission is prohibited. Please see our [copyright notice](#). If you want to use any content you have seen on this site then please [request our media pack](#) and ask for details of our Content Licencing Service.

Readers Comments...



Be the first to comment on this article

Also of interest...

Related Guides:

- [Contractor tax: limited company and personal taxes explained](#)
- [Steps to become a contractor](#)
- [How to Find a Contract](#)
- [Tips For Long Term Successful Contracting](#)
- [What is IR35?](#)

Related Calculators:

- [PAYE/NI Net Salary Tax Calculator](#)
- [Contractor Calculator](#)
- [Target Income Calculator](#)

Related Internet Links:

- [Stevens & Bolton](#)
- [Migration Watch](#)



ABCe verified website - last audit confirmed **130,682 monthly unique visitors**

© Copyright 2011 Byte-Vision Limited UK. All rights reserved [Copyright notice](#)