



# Health, Safety, Quality and Environmental Alert

Alert number:

26-15

Document Reference:

AMG/F/HSQE/001

## Illegal Working

Issue Date:

25/03/15

Author:

Steve Milroy

(To be posted on HSQE Notice Boards for a Period of 1 MONTH from date of issue)

### Background:

You may have read in the press during October 2014 that 14 immigration offenders were caught in a Home Office Immigration Enforcement raid assisted by British Transport police in north London.

This raid led to the identification of the offences of overstayed visas; entering the country illegally and breach of visa conditions.

Illegal working may result in exploitative behavior and the mistreatment of illegal migrant workers and tax evasion.

**Network Rail would like to remind you that as an employer, you have a legal responsibility to prevent illegal working in the UK by ensuring that your employees have the right to work here.**

The illegal working provisions of the Immigration, Asylum and Nationality Act 2006 ('the Act') which came into force on 29 February 2008 make it a criminal offence to employ an individual knowing that the employee is an adult subject to immigration control and that:

(a) he has not been granted leave to enter or remain in the United Kingdom, or (b) his leave to enter or remain in the United Kingdom:

(i) is invalid,

(ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or

(iii) is subject to a condition preventing him from accepting the employment.

A civil penalty may also be imposed if an employer negligently employs someone without the right to undertake the work for which they are employed, either because they have not been granted a UK immigration permission, or the permission is invalid, has been revoked, cancelled or has expired, or because the individual is not entitled to undertake the role on offer.

In such cases, the Act allows service of a notice requiring the payment of a penalty of a specified amount (up to a maximum of £20,000 for each individual who does not have the right to work) unless the employer can demonstrate that appropriate right to work documents checks were carried out.

As well as being a legal requirement to check that an individual is eligible to work in the UK it is also a requirement under the Sentinel Scheme Rules. Section 3.1 of which states:

***'Conduct and document a pre-sponsorship interview to determine whether the Individual is legally eligible to work in the UK'***

Any supplier who breaks the rules can face suspension of their Sentinel Scheme Sponsorship and a failure to comply with the legal requirements can lead to breach of contract and Network Rail serving notice to terminate your contract.