

THE IMMIGRATION ACT AND THE EMPLOYMENT OF ILLEGAL FOREIGNERS

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Imraan Mahomed

In 2024, the Department of Employment and Labour (DEL), the Department of Home Affairs and the South African Police Service ramped up workplace inspections to clamp down on the employment of illegal foreigners and ensure compliance with the Immigration Act 13 of 2002 (Immigration Act).

In mid-February 2025, the DEL minister indicated that:

- 68 employers were arrested across South Africa, all of whom paid a R10 000 admission of guilt fine in lieu of fines in terms of the Immigration Act, with the highest number of employer arrests

having occurred in the Eastern Cape and Mpumalanga.

- Accordingly, the total amount paid in lieu of fines was R680 000.
- 322 employees were arrested and further processed under the Immigration Act.

CLAMPING DOWN ON IMMIGRATION ACT CONTRAVENTIONS

The DEL continues to spearhead compliance inspections and to clamp down on contraventions of the Immigration Act in 2025.

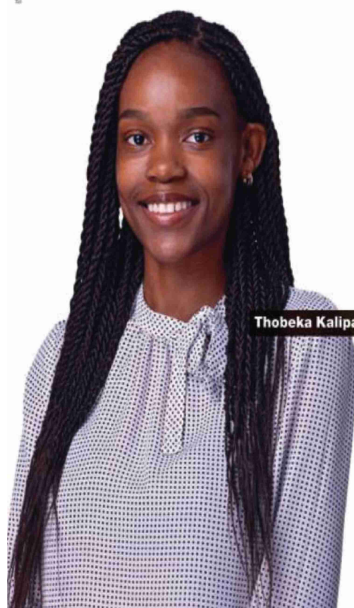
Employers are reminded of their obligation to ensure they are not employing any illegal foreigners, and to determine the status of any foreigner who is employed. Where an illegal foreigner is employed, employers need to be aware that this constitutes a breach of the Immigration Act.

In managing the employment relationship with any foreign employees, it is therefore important to be proactive and mitigate against any risks associated with such employment. Regular audits have become a necessity. Where illegal foreigners are identified, employers should take caution to manage the situation appropriately to avoid being on the wrong side of dismissals and having to defend claims in the Commission for Conciliation, Mediation and Arbitration. ●

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IMAGES: SUPPLIED



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