Immigration Act 2016

2016 CHAPTER 19

PART 1

LABOUR MARKET AND ILLEGAL WORKING

CHAPTER 1

LABOUR MARKET

Director of Labour Market Enforcement

3 Non-compliance in the labour market etc: interpretation

(1) For the purposes of this Chapter each of the following constitutes "non-compliance in the labour market"—

(a) the commission of a labour market offence;

(b) failure to comply with the requirement under section 1 of the National Minimum Wage Act 1998 (workers to be paid at least national minimum wage);

(c) failure to pay any financial penalty required to be paid by a notice of underpayment served under section 19 of that Act (see section 19A of that Act);

(d) breach of a condition of a licence granted under section 7 of the Gangmasters (Licensing) Act 2004;

(e) failure to comply with any other requirement imposed by or under any enactment and which is prescribed by regulations made by the Secretary of State.

(2) In this Chapter "labour market enforcement functions" means—

(a) any function of the Secretary of State in connection with prohibition orders made under section 3A of the Employment Agencies Act 1973,

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(b) any function of an officer acting for the purposes of that Act (see section 8A of that Act),

(c) any function of an officer acting for the purposes of the National Minimum Wage Act 1998 (see section 13 of that Act),

(d) any function of the Gangmasters and Labour Abuse Authority conferred by section 1(2)(a) to (c) of the Gangmasters (Licensing) Act 2004,

(e) any function of an enforcement officer or a compliance officer acting for the purposes of that Act (see section 15 of that Act),

(f) any function of the Gangmasters and Labour Abuse Authority under Part 2 of the Modern Slavery Act 2015 (slavery and trafficking prevention orders etc),

(g) any function of an officer of that Authority acting for the purposes of Part 1 or 2 of that Act (see sections 11A and 30A of that Act),

(h) any function of an enforcing authority under this Chapter,

(i) any function an officer has by virtue of section 26, and

(j) any other function prescribed by regulations made by the Secretary of State.

(3) In this section "labour market offence" means—

(a) an offence under the Employment Agencies Act 1973 other than one under section 9(4)(b) of that Act;

(b) an offence under the National Minimum Wage Act 1998;

(c) an offence under the Gangmasters (Licensing) Act 2004;

(d) an offence under section 1 of the Modern Slavery Act 2015;

(e) an offence under section 2 or 4 of that Act—

(i) which is committed in relation to a worker or a person seeking work, or

(ii) which is otherwise committed in circumstances where subsection (2) of section 3 of that Act applies;

(f) an offence under section 30(1) or (2) of that Act which is committed in relation to—

(i) an order which was made on the application of the Gangmasters and Labour Abuse Authority, or

(ii) an order which was made under section 14 of that Act and which falls within subsection (4) below;

(g) an offence under section 27;

(h) any other offence prescribed by regulations made by the Secretary of State;

(i) an offence of attempting or conspiring to commit an offence mentioned in paragraphs (a) to (h);

(j) an offence under Part 2 of the Serious Crime Act 2007 in relation to an offence so mentioned;

(k) an offence of inciting a person to commit an offence so mentioned;

(l) an offence of aiding, abetting, counselling or procuring the commission of an offence so mentioned.

(4) An order made under section 14 of the Modern Slavery Act 2015 falls within this subsection if—

(a) the order was made following—

(i) the conviction of the defendant of an offence mentioned in subsection (3)(d), (e) or (i) to (l), or

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(ii) a finding of a kind mentioned in section 14(1)(b) or (c) of that Act in connection with any such offence, and

(b) the prosecution resulted from an investigation conducted by a labour abuse prevention officer (within the meaning of section 114B of the Police and Criminal Evidence Act 1984).

(5) In this section "worker" has the same meaning as in the Employment Rights Act 1996 (see section 230 of that Act) and the reference to a person seeking work is to be read accordingly.

(6) In this section references to the Gangmasters (Licensing) Act 2004 are references to that Act only so far as it applies in relation to England and Wales and Scotland.

Commencement Information

I1 S. 3 in force at 12.7.2016 by S.I. 2016/603, **reg. 3(a)**

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Changes and effects yet to be applied to :

– specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by S.I. 2018/31 reg. 2

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 69(9)(d) and word inserted by 2023 c. 37 s. 21(2)(b)
– Sch. 10 para. 3(2)(eza) inserted by 2023 c. 37 s. 13(3)(a)
– Sch. 10 para. 3(3A)-(3C) inserted by 2023 c. 37 s. 13(3)(b)
– Sch. 10 para. 3A and cross-heading inserted by 2023 c. 37 s. 13(4)