



# 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.

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**Commencement Information**

- II** [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:**

- Act excluded by [2024 c. 8 s. 2\(5\)\(a\)](#)<sup>5</sup>

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\(4\)](#)