
STATUTORY INSTRUMENTS

2013 No. 1460

**The Accession of Croatia (Immigration and
Worker Authorisation) Regulations 2013**

PART 4

PENALTIES AND OFFENCES

Unauthorised employment of accession State national - penalty for employer

11.—(1) It is contrary to this regulation to employ an accession State national subject to worker authorisation during the accession period if that person is not the holder of a valid accession worker authorisation document or, where that person holds such a document, the person would be in breach of a condition of that document in undertaking the employment.

(2) The Secretary of State may give an employer who acts contrary to this regulation a notice requiring him to pay a penalty of a specified amount not exceeding £5,000.

(3) The Secretary of State may give a penalty notice without having established whether the employer is excused under paragraph (5).

(4) A penalty notice must—

- (a) state why the Secretary of State thinks the employer is liable to the penalty;
- (b) state the amount of the penalty;
- (c) specify a date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid;
- (d) specify how the penalty must be paid;
- (e) provide a reference number;
- (f) explain how the employer may object to the penalty; and
- (g) explain how the Secretary of State may enforce the penalty.

(5) Subject to paragraph (7), an employer is excused from paying a penalty under this regulation if—

- (a) before the commencement of the employment, the employee or prospective employee produces to the employer any of the following documents—
 - (i) an accession worker authorisation document that authorises the employee or prospective employee to take the employment in question;
 - (ii) an EEA registration certificate which includes a statement that the holder has unconditional access to the United Kingdom labour market; or
 - (iii) one of the following documents confirming that the document holder is not an accession State national subject to worker authorisation by virtue of regulation 2(6)

—
(aa) a passport;

- (bb) a national identity card; or
 - (cc) other travel document as defined by regulation 8(5); and
- (b) the employer complies with the requirements set out in paragraph (6) of this regulation.
- (6) The requirements are that—
- (a) the employer takes all reasonable steps to check the validity of the document;
 - (b) the employer has satisfied himself that the photograph on the document is of the employee or prospective employee;
 - (c) the employer has satisfied himself that the date of birth on the document is consistent with the appearance of the employee or prospective employee;
 - (d) the employer takes all other reasonable steps to check that the employee or prospective employee is the rightful holder of the document; and
 - (e) the employer securely retains a dated copy of the whole of the document in a format which cannot be subsequently altered for a period of not less than two years after the employment has come to an end.
- (7) An employer is not excused from paying a penalty if the employer knew, at any time during the period of the employment, that the employment was contrary to this regulation.
- (8) Nothing in these regulations permits an employer to retain documents produced by an employee or prospective employee for the purposes of paragraph (5) for any period longer than is necessary for the purposes of ensuring compliance with paragraph (6).
- (9) The Secretary of State may issue a code of practice specifying factors to be considered by her in determining the amount of a penalty imposed under paragraph (2) of this regulation.
- (10) The Secretary of State shall lay a code issued under paragraph (9) before Parliament and publish it.
- (11) The Secretary of State may from time to time review the code and may revoke, or revise and re-issue it, following a review; and a reference in this section to the code includes a reference to the code as revised.

Changes to legislation:

There are currently no known outstanding effects for the The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013, Section 11.