

IMMIGRATION ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Access to Services etc

Chapter 2: Other Services etc

National Health Service

Work

Section 44: Appeals against penalty notices

207. This section amends section 17 of the 2006 Act. It substitutes for subsections (4) and (5) new subsections (4A) to (4E). The effect is to require an employer to exercise their right to object to a penalty notice for a breach of the illegal working provisions in that Act to the Secretary of State before they appeal to the civil court against the penalty.

Section 45: Recovery of sums payable under penalty notices

208. This section amends section 18 of the 2006 Act. It substitutes subsections (1) and (2) with new subsections (1) to (1D). The effect is to allow the Secretary of State to enforce a penalty as if it were a debt due under a court order. The amendment will allow an outstanding penalty to be registered with the civil court, after which enforcement action may be commenced immediately. It will eliminate the need for the Secretary of State to first make an application to the court for a substantive order for payment.
209. Currently the penalty ‘may be recovered by the Secretary of State as a debt due to him.’ This requires the issue of a substantive claim which gives the employer the opportunity to raise a defence before the matter is determined and judgment is given. At this point in proceedings, the Secretary of State can seek to rely on subsection (2) of section 18 which states that in proceedings for the enforcement of a penalty, no question may be raised regarding liability to the penalty, application of an excuse in section 15(3) or the amount of the penalty. The amendment will remove the need for these proceedings entirely and allow the Secretary of State to register the penalty with the court and then move to enforcement proceedings.
210. Subsection (1D) provides that where action is taken under this section for the recovery of a sum payable as a penalty, the penalty is to be treated as if it were a judgment entered in the county court in England and Wales for the purposes of section 98 of the Courts Act 2003, and as a judgment in Northern Ireland in respect of which an application for enforcement has been entered for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981. This will allow penalty notices where enforcement action is taken to be entered on the registers of judgments in England and Wales and in Northern Ireland as though a substantive order for the sum payable had been made by a court in those jurisdictions.