



Immigration Act 2016

2016 CHAPTER 19

PART 1

LABOUR MARKET AND ILLEGAL WORKING

CHAPTER 1

LABOUR MARKET

Labour market enforcement undertakings

14 Power to request LME undertaking

- (1) This section applies where an enforcing authority believes that a person has committed, or is committing, a trigger offence.
- (2) An enforcing authority may give a notice to the person—
 - (a) identifying the trigger offence which the authority believes has been or is being committed;
 - (b) giving the authority's reasons for the belief;
 - (c) inviting the person to give the authority a labour market enforcement undertaking in the form attached to the notice.
- (3) A labour market enforcement undertaking (an "LME undertaking") is an undertaking by the person giving it (the "subject") to comply with any prohibitions, restrictions and requirements set out in the undertaking (as to which see section 15).
- (4) "Trigger 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;

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- (d) any other offence prescribed by regulations made by the Secretary of State;
 - (e) an offence of attempting or conspiring to commit an offence mentioned in paragraphs (a) to (d);
 - (f) an offence under Part 2 of the Serious Crime Act 2007 in relation to an offence so mentioned;
 - (g) an offence of inciting a person to commit an offence so mentioned;
 - (h) an offence of aiding, abetting, counselling or procuring the commission of an offence so mentioned.
- (5) “Enforcing authority”—
- (a) in relation to a trigger offence under the Employment Agencies Act 1973, means the Secretary of State or any authority whose officers are acting for the purposes of that Act (see section 8A of that Act);
 - (b) in relation to a trigger offence under the National Minimum Wage Act 1998, means the Secretary of State or any authority whose officers are acting for the purposes of that Act (see section 13 of that Act);
 - (c) in relation to a trigger offence under the Gangmasters (Licensing) Act 2004, means the Secretary of State or any authority whose officers are acting as enforcement officers for the purposes of that Act (see section 15 of that Act);
 - (d) in relation to an offence which is a trigger offence by virtue of subsection (4)(d) (including an offence mentioned in subsection (4)(e) to (h) in connection with such an offence), has the meaning prescribed in regulations made by the Secretary of State.
- (6) In subsection (5), a reference to an offence under an Act includes a reference to an offence mentioned in subsection (4)(e) to (h) in connection with such an offence.
- (7) 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.

15 Measures in LME undertakings

- (1) An LME undertaking may include a prohibition, restriction or requirement (each a “measure”) if, and only if—
- (a) the measure falls within subsection (2) or (3) (or both), and
 - (b) the enforcing authority considers that the measure is just and reasonable.
- (2) A measure falls within this subsection if it is for the purpose of—
- (a) preventing or reducing the risk of the subject not complying with any requirement imposed by or under the relevant enactment, or
 - (b) bringing to the attention of persons likely to be interested in the matter—
 - (i) the existence of the LME undertaking,
 - (ii) the circumstances in which it was given, and
 - (iii) any action taken (or not taken) by the subject in order to comply with the undertaking.
- (3) A measure falls within this subsection if it is prescribed, or is of a description prescribed, in regulations made by the Secretary of State.
- (4) The enforcing authority must not—
- (a) invite the subject to give an LME undertaking, or
 - (b) agree to the form of an undertaking,

unless the authority believes that at least one measure in the undertaking is necessary for the purpose mentioned in subsection (5).

- (5) That purpose is preventing or reducing the risk of the subject—
 - (a) committing a further trigger offence under the relevant enactment, or
 - (b) continuing to commit the trigger offence.
- (6) An LME undertaking must set out how each measure included for the purpose mentioned in subsection (2)(a) is expected to achieve that purpose.
- (7) In this section, the “relevant enactment” means the enactment under which the enforcing authority believes the trigger offence concerned has been or is being committed.

16 Duration

- (1) An LME undertaking has effect from when it is accepted by the enforcing authority or from the later time specified in it for this purpose.
- (2) An LME undertaking has effect for the period specified in it but the maximum period for which an undertaking may have effect is 2 years.
- (3) The enforcing authority may release the subject from an LME undertaking.
- (4) The enforcing authority must release the subject from an LME undertaking if at any time during the period for which it has effect the authority believes that no measure in it is necessary for the purpose mentioned in section 15(5).
- (5) If the enforcing authority releases the subject from an LME undertaking it must take such steps as it considers appropriate to bring that fact to the attention of—
 - (a) the subject;
 - (b) any other persons likely to be interested in the matter.

17 Further provision about giving notice under section 14

- (1) A notice may be given under section 14 to a person by—
 - (a) delivering it to the person,
 - (b) leaving it at the person’s proper address,
 - (c) sending it by post to the person at that address, or
 - (d) subject to subsection (6), sending it to the person by electronic means.
- (2) A notice to a body corporate may be given to any officer of that body.
- (3) A notice to a partnership may be given to any partner.
- (4) A notice to an unincorporated association (other than a partnership) may be given to any member of the governing body of the association.
- (5) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person is the person’s last known address (whether of the person’s residence or of a place where the person carries on business or is employed) and also—
 - (a) in the case of a body corporate or an officer of the body, the address of the body’s registered or principal office in the United Kingdom;

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- (b) in the case of a partnership or a partner, the address of the principal office of the partnership in the United Kingdom;
 - (c) in the case of an unincorporated association (other than a partnership) or a member of its governing body, the principal office of the association in the United Kingdom.
- (6) A notice may be sent to a person by electronic means only if—
- (a) the person has indicated that notices under section 14 may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose, and
 - (b) the notice is sent to that address in that form.
- (7) A notice sent to a person by electronic means is, unless the contrary is proved, to be treated as having been given on the working day immediately following the day on which it was sent.
- (8) In this section—
- “electronic address” means any number or address used for the purposes of sending or receiving documents or information by electronic means;
 - “officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body;
 - “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.