

D R A F T S T A T U T O R Y I N S T R U M E N T S

2023 No.

TRADE UNIONS

**The Strikes (Minimum Service Levels: Border Security)
Regulations 2023**

Made - - - -

Coming into force in accordance with regulation 1(2)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 234B(1) and (3) and 234F(2)(b) of the Trade Union and Labour Relations (Consolidation) Act 1992(a) (“the 1992 Act”).

In accordance with section 234F(1) of the 1992 Act, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

In accordance with section 234F(4) of the 1992 Act, a draft of this instrument was laid before and approved by a resolution of each House of Parliament.

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Strikes (Minimum Service Levels: Border Security) Regulations 2023.

(2) These Regulations come into force on the later of the following—

- (a) the time immediately after the relevant Code of Practice comes into effect in accordance with an order under section 204(3) of the 1992 Act, and
- (b) the day after the day on which these Regulations are made.

(3) In paragraph (2) “the relevant Code of Practice” means the first Code of Practice issued by the Secretary of State under section 203 of the 1992 Act on reasonable steps to be taken by a Trade Union to ensure that all members of the union who are identified in a work notice comply with the notice(b).

(4) These Regulations extend to England and Wales and Scotland.

(5) In these Regulations “the 1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992.

(a) 1992 c. 52. Sections 234B to 234G were inserted by paragraph 2 of the Schedule to the Strikes (Minimum Service Levels) Act 2023 (c. 39).

(b) The Secretary of State has consulted on a draft of this Code of Practice. This consultation closed at 9.30am on 6th October 2023. Copies of the draft Code of Practice as consulted on are available here: <https://www.gov.uk/government/consultations/minimum-service-levels-code-of-practice-on-reasonable-steps>.

Relevant services for the purposes of section 234B of the 1992 Act: border security

2.—(1) The services specified in paragraph (2) are “relevant services” for the purposes of section 234B(3) of the 1992 Act (power of the Secretary of State to define “relevant services” for the purposes of Part 5 of that Act).

(2) The services mentioned in paragraph (1) are—

- (a) the following services provided on behalf, or under the authority, of the Secretary of State or the Director of Border Revenue^(a), other than any excluded services—
 - (i) the examination of persons arriving in or leaving the United Kingdom;
 - (ii) the examination of goods—
 - (aa) imported to or exported from the United Kingdom, or
 - (bb) entered for exportation or brought to any place in the United Kingdom for exportation;
 - (iii) the patrol of ports, and the sea and other waters within the seaward limits of the territorial sea adjacent to the United Kingdom;
 - (iv) the collection and dissemination of intelligence for the purposes of the services mentioned in paragraphs (i) to (iii);
 - (v) the direction and control of any of the services mentioned in paragraphs (i) to (iv);
- (b) any services for, or in connection with, the issuing of passports and other travel documents provided by His Majesty’s Passport Office on behalf, or under the authority, of the Secretary of State, other than any excluded services.

(3) For the purposes of this regulation—

- (a) a service is an excluded service if it is provided other than by a person in the course of Crown employment under or for the purposes of the Home Office^(b);
- (b) “port” includes an airport and a hoverport.

Minimum level of service: border services

3.—(1) The level of service, for the purposes of enabling work notices under section 234C of the 1992 Act to be given, in relation to strikes as respects the border services is that, on each day of the strike, the border services are no less effective than they would be if the strike were not taking place on that day.

(2) In this regulation “the border services” means the services specified in regulation 2(2)(a).

Minimum level of service: passport services

4.—(1) The level of service, for the purposes of enabling work notices under section 234C of the 1992 Act to be given, in relation to strikes as respects the passport services is that, on each day of the strike, such of those services as are necessary in the interests of national security are provided as they would be if the strike were not taking place on that day.

(2) In this regulation “the passport services” means the services specified in regulation 2(2)(b).

Minister of State
Home Office

(a) The Director of Border Revenue is an official designated under section 6 of the Borders, Citizenship and Immigration Act 2009 (c. 11).

(b) Section 273 of the 1992 Act defines “Crown employment” for the purposes of that Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 234B of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52). For the purposes of enabling work notices to be given under section 234C of that Act, these Regulations specify:

- (a) certain border security services and certain passport services as “relevant services”, and
- (b) the levels of service in relation to strikes as respects those relevant services.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Home Office at 2 Marsham Street, London SW1P 4DF and is annexed to the Explanatory Memorandum which is available alongside this instrument on www.legislation.gov.uk.

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