



Immigration Act 2016

2016 CHAPTER 19

PART 1

LABOUR MARKET AND ILLEGAL WORKING

CHAPTER 1

LABOUR MARKET

Labour market enforcement orders

18 Power to make LME order on application

- (1) The appropriate court may, on an application by an enforcing authority under section 19, make a labour market enforcement order against a person if the court—
 - (a) is satisfied, on the balance of probabilities, that the person has committed, or is committing, a trigger offence, and
 - (b) considers that it is just and reasonable to make the order.
- (2) A labour market enforcement order (an “LME order”) is an order which—
 - (a) prohibits or restricts the person against whom it is made (“the respondent”) from doing anything set out in the order;
 - (b) requires the respondent to do anything set out in the order.

See section 21.

- (3) In this section “the appropriate court”—
 - (a) where the conduct constituting the trigger offence took or is taking place primarily in England and Wales, means a magistrates' court;
 - (b) where that conduct took or is taking place primarily in Scotland, means the sheriff;

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- (c) where that conduct took or is taking place primarily in Northern Ireland, means a court of summary jurisdiction.
- (4) An application for an LME order under this section is—
 - (a) in England and Wales, to be made by complaint;
 - (b) in Northern Ireland, to be made by complaint under Part 8 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).

Commencement Information

II [S. 18](#) in force at 25.11.2016 by [S.I. 2016/1037](#), [reg. 4\(b\)](#)

19 Applications

- (1) An enforcing authority may apply for an LME order to be made under section 18 against a person (the “proposed respondent”) if—
 - (a) the authority has served a notice on the proposed respondent under section 14, and
 - (b) the proposed respondent—
 - (i) refuses to give an LME undertaking, or
 - (ii) otherwise fails, before the end of the negotiation period, to give an LME undertaking in the form attached to the notice or in such other form as may be agreed with the enforcing authority.
- (2) An enforcing authority may also apply for an LME order if the proposed respondent—
 - (a) has given an LME undertaking to the enforcing authority, and
 - (b) has failed to comply with the undertaking.
- (3) In subsection (1) “the negotiation period” means—
 - (a) the period of 14 days beginning with the day after that on which the notice mentioned in paragraph (a) of that subsection was given, or
 - (b) such longer period as may be agreed between the enforcing authority and the proposed respondent.

Commencement Information

I2 [S. 19](#) in force at 25.11.2016 by [S.I. 2016/1037](#), [reg. 4\(b\)](#)

20 Power to make LME order on conviction

- (1) This section applies where a court deals with a person in respect of a conviction for a trigger offence.
- (2) The court may make an LME order against the person if the court considers it is just and reasonable to do so.
- (3) An LME order must not be made under this section except—
 - (a) in addition to a sentence imposed in respect of the offence concerned, or
 - (b) in addition to an order discharging the person conditionally or, in Scotland, discharging the person absolutely.

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Commencement Information

I3 [S. 20](#) in force at 25.11.2016 by [S.I. 2016/1037](#), [reg. 4\(b\)](#)

21 Measures in LME orders

- (1) An LME order may include a prohibition, restriction or requirement (each a “measure”) if, and only if, the measure falls within subsection (2) or (3) (or both).
- (2) A measure falls within this subsection if it is for the purpose of—
 - (a) preventing or reducing the risk of the respondent 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 order,
 - (ii) the circumstances in which it was made, and
 - (iii) any action taken (or not taken) by the respondent in order to comply with the order.
- (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) Where an LME order includes a measure for the purpose mentioned in subsection (2)
 - (a), the order must set out how the measure is expected to achieve that purpose.
- (5) In this section the “relevant enactment” means the enactment under which the trigger offence concerned has been or is being committed.

Commencement Information

I4 [S. 21](#) in force at 25.11.2016 by [S.I. 2016/1037](#), [reg. 4\(b\)](#)

22 Further provision about LME orders

- (1) An LME order has effect for the period specified in it but the maximum period for which an order may have effect is 2 years.
- (2) An LME order may not be made against an individual who is under 18.
- (3) If a court makes an LME order, the court may also—
 - (a) release the respondent from any LME undertaking given in relation to the trigger offence concerned;
 - (b) discharge any other LME order which is in force against the respondent and which was made by the court or any other court in the same part of the United Kingdom as the court.

Commencement Information

I5 [S. 22](#) in force at 25.11.2016 by [S.I. 2016/1037](#), [reg. 4\(b\)](#)

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23 Variation and discharge

- (1) The appropriate court may by order vary or discharge an LME order—
 - (a) on the application of the respondent;
 - (b) if the order was made under section 18, on the application of the enforcing authority who applied for the order;
 - (c) if the order was made under section 20, on the application of the enforcing authority whose officer conducted the investigation which resulted in the prosecution of the respondent for the trigger offence.
- (2) In this section “the appropriate court”—
 - (a) in relation to an LME order made in England and Wales (whether made under section 18 or 20), means a magistrates' court;
 - (b) in relation to such an order made in Scotland, means the sheriff;
 - (c) in relation to such an order made in Northern Ireland, means a court of summary jurisdiction.
- (3) An application for an order under this section is—
 - (a) if made to a magistrates' court in England and Wales, to be made by complaint;
 - (b) if made to a court of summary jurisdiction in Northern Ireland, to be made by complaint under Part 8 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).

Commencement Information

I6 S. 23 in force at 25.11.2016 by S.I. 2016/1037, reg. 4(b)

24 Appeals

- (1) A respondent may appeal against—
 - (a) the making of an LME order under section 18;
 - (b) the making of, or refusal to make, an order under section 23.
- (2) An appeal under subsection (1) is to be made—
 - (a) where the order was made or refused by a magistrates' court in England and Wales, to the Crown Court;
 - (b) where the order was made or refused by the sheriff, to the Sheriff Appeal Court;
 - (c) where the order was made or refused by a court of summary jurisdiction in Northern Ireland, to a county court.
- (3) On an appeal under subsection (1) the court hearing the appeal may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just and reasonable.
- (4) An LME order that has been varied by virtue of subsection (3) remains an order of the court that first made it for the purposes of section 23.
- (5) A respondent may appeal against the making of an LME order under section 20 as if the order were a sentence passed on the respondent for the trigger offence.

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Commencement Information

I7 [S. 24](#) in force at 25.11.2016 by [S.I. 2016/1037](#), **reg. 4(b)**

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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](#)