



Immigration Act 2016

2016 CHAPTER 19

PART 1

LABOUR MARKET AND ILLEGAL WORKING

CHAPTER 2

ILLEGAL WORKING

Offences

35 Offence of employing illegal worker

- (1) Section 21 of the Immigration, Asylum and Nationality Act 2006 (offence of knowingly employing illegal worker) is amended in accordance with subsections (2) to (4).
- (2) In subsection (1) for the words from “an adult” to the end of the subsection substitute “disqualified from employment by reason of the employee's immigration status.”
- (3) After subsection (1) insert—
 - “(1A) A person commits an offence if the person—
 - (a) employs another person (“the employee”) who is disqualified from employment by reason of the employee's immigration status, and
 - (b) has reasonable cause to believe that the employee is disqualified from employment by reason of the employee's immigration status.
 - (1B) For the purposes of subsections (1) and (1A) a person is disqualified from employment by reason of the person's immigration status if the person is an adult subject to immigration control and—
 - (a) the person has not been granted leave to enter or remain in the United Kingdom, or

Changes to legislation: *Immigration Act 2016, Section 35 is up to date with all changes known to be in force on or before 19 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) the person's leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing the person from accepting the employment.”
- (4) In subsection (2)(a)(i) (maximum term of imprisonment for conviction of offence on indictment) for “two” substitute “ five ”.
- (5) Section 22 of the Immigration, Asylum and Nationality Act 2006 (offences by bodies corporate etc) is amended in accordance with subsections (6) and (7).
- (6) After subsection (1) insert—

“(1A) For the purposes of section 21(1A) a body (whether corporate or not) shall be treated as having reasonable cause to believe a fact about an employee if a person who has responsibility within the body for an aspect of the employment has reasonable cause to believe that fact.”
- (7) In each of subsections (2) and (4) after “21(1)” insert “ or (1A) ”.
- (8) In section 24(a) of the Immigration, Asylum and Nationality Act 2006 (immigration bail) for “21(1)” substitute “ 21(1B) ”.
- (9) In section 28A of the Immigration Act 1971 (arrest without warrant)—
 - (a) after subsection (9A) insert—

“(9B) An immigration officer may arrest without warrant a person who, or whom the immigration officer has reasonable grounds for suspecting—

 - (a) has committed or attempted to commit an offence under section 21(1) or (1A) of the Immigration, Asylum and Nationality Act 2006 (employment of illegal worker etc), or
 - (b) is committing or attempting to commit that offence.”,
 - (b) in subsection (10) for “and (5)” substitute “ , (5) and (9B) ”, and
 - (c) in subsection (11) for “and (5)” substitute “ , (5) and (9B) ”.
- (10) In section 28AA(1) of that Act (arrest with warrant) for paragraphs (a) and (b) substitute “ section 24(1)(d) ”.

Commencement Information

II [S. 35](#) in force at 12.7.2016 by [S.I. 2016/603](#), [reg. 3\(f\)](#)

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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](#)