



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

Status: This is the original version (as it was originally enacted).

- (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)”.