

ILPA immigration update 60

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Immigration Act 2014

The Immigration Act became law on the 14 May 2014. The Act is a wide-ranging piece of legislation which makes fundamental changes to how the UK's immigration system operates. The main changes contained within the Act are:

- Abolishing almost all rights of appeal to the First-Tier Tribunal (Immigration and Asylum Chamber) and replacing them with a right to appeal only against decisions refusing asylum or human rights protection;
- Limiting the scope for any appeal to the Tribunal to asylum or human rights grounds only;
- New powers for the Secretary of State to deny an in-country right of appeal to a person being deported, as long as this would not cause "serious irreversible harm";
- Tightening access to bail, including making it harder for persons detained under immigration powers to make repeat bail applications;
- Requiring private landlords to check the immigration status of their tenants and denying some categories of people subject to immigration control the right to rent private properties;
- Paving the way for annual NHS charges for certain categories of migrants;
- Specifying Parliament's view of what the "public interest" requires in cases that involve a consideration of family life rights under the European Convention of Human Rights.

ILPA is preparing a series of Information Sheets explaining the different changes contained within the Bill which will be available in June.

We are also running a series of training courses on the Bill; June and July dates are currently sold out; however there are now two new dates for August. Details of ILPA's full training programme (available to ILPA members at a discounted rate) are available [here](#).

Changes to Judicial Review

A number of changes affecting the remedy of judicial review have been recently brought into force, with more pending. Judicial review is a legal mechanism by which the Courts can review decision-making by public bodies to ensure that it is lawful and fair. The changes are described in ILPA's recent Information Sheets:

- [Judicial Review: How It Works](#)
- [Judicial Review: Update 1](#)
- [Judicial Review: Update 2](#)

The combined effect of these changes is to make it more difficult for individuals to access judicial review, particularly those who cannot afford to hire a lawyer and must rely on legal aid to protect their rights. These changes take on heightened significance when viewed with the simultaneous changes to appeal rights contained within the Immigration Act – judicial reviews are predicted by the Government to increase as a result of the Act. This is because the cutting of appeal rights will invariably funnel more cases towards this remedy.

Illegal working

The Government has introduced new rules on illegal working, with two Orders published in May as well as a raft of new guidance for employers. Key documents include:

- The Immigration (Employment of Adults Subject to Immigration Control) (Maximum Penalty) (Amendment) Order 2014 ([SI 2014/1262](#)), which came into effect on 15 May 2014;
- The Immigration (Restrictions on Employment) (Codes of Practice and Amendment) Order 2014 ([SI 2014/1183](#)), which came into force on 16 May 2014;
- A [Code of Practice](#) on avoiding discrimination while preventing illegal working, published on 16 May 2014;
- A new [Employer's Guide](#) to right to work checks, published on 16 May 2014.

A full list of the new guidance is available from the Government's website [here](#). The broad effect of the changes is to tighten the checks on illegal working that employers must carry out. The maximum penalty for employing a worker without the right to work has been doubled from £10,000 to £20,000. The changes incentivise employers to employ British nationals in preference to persons under immigration control, they also incentivise employers to report any suspicions about an employee to the Home Office, essentially putting more of a burden on employers to inform the Home Office about possible breaches of immigration law. The changes overall risk undermining employees' rights and damaging relationships between employers and all workers.

Home Office appeal in language analysis case fails

The Supreme Court has this month dismissed the Home Office's appeal against a judgment of the Scottish Court of Session (High Court equivalent) which ruled that linguistic analysis reports from the Swedish company Sprakab – often used by the Home Office as a basis for refusing asylum – should not be relied upon for opinions regarding an asylum applicant's knowledge of his or her country of origin, nor for opinions as to the person's credibility, these being matters outwith the expertise of the authors (which is purported to be in linguistics only). The Supreme Court's judgment of 21 May is available [here](#). The original judgment of the Court of Session, which is very critical of Sprakab, is *M.A.B.N. v. The Advocate General for Scotland* [2013] CSIH 68 (12 July 2013), available [here](#).