



# information sheet

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## The Immigration Bill and UK Businesses

This information sheet discusses the proposals in the Immigration Bill introduced to parliament on 17 September 2015 that may affect businesses in the UK. It sets out those measures within the Bill that are specifically related to business activities or premises. It also discusses briefly those provisions in the Bill that would cause a break in the right to remain and right to work of employees which may have an indirect impact on businesses.

### Increased penalties for employers

It is currently an offence to knowingly employ a person without permission to work in the UK. Under the proposals of the Bill, this offence would be widened so that it captured employers who have 'reasonable cause to believe' that the worker has no right to work. The Government states that the widened offence is aimed at employers who deliberately avoid checking workers' documents so that they only become liable for a civil penalty (fine) rather than a criminal penalty. However, the offence affects employers who were not careful enough in complying with their duties rather than those who deliberately set out to break the law. At the same time, the maximum criminal penalty for the offence of employing a person without leave is increased from two to five years imprisonment.

### Powers to search and close businesses

The Bill seeks to widen the search powers granted to Immigration Officers who are lawfully on any premises. Using the new powers, Immigration Officers would be able to search premises where they had reasonable grounds to believe that there might be documents which would assist in determining whether the employer was liable for a civil penalty for employing an illegal worker or a criminal offence. Documents could be seized and retained or, if they were electronic in format and could not be printed or copied for the officer, the computer or server could be seized instead.

The Bill also gives new powers for immigration officers to close an employer's premises where 'satisfied on reasonable grounds' that the employer is employing a person without leave to enter or remain (including where their leave ends during their employment). The powers would apply in cases where the employer had been required to pay a civil penalty for employing someone without permission to work in the previous three years or had been convicted of the offence of employing a person without permission to work. Immigration Officers could close a business immediately for a period of 48 hours and then apply to court for an order prohibiting or restricting access to the premises for up to two years.

### Powers to search licensed premises and to object to licenses

Businesses require a licence from the local authority to sell alcohol, to sell hot food or drink

between 11pm and 5am or for the provision of entertainment. Under the Bill, Immigration Officers would be granted powers to enter licensed premises to identify whether an immigration offence is being committed with no need for any suspicion to do so. The Secretary of State would also be added to the list of persons who must be notified when an application for a licence is made and would have the power to object to the grant of the licence. The Secretary of State would also be able to appeal against the grant of a licence or the refusal to cancel a licence despite her objection. The Government states that the reason for these increased powers is because of its belief that a significant amount of illegal working happens on licensed premises.

### **Criminal sanctions for landlords and landladies**

The 'right to rent' scheme which was introduced by the Immigration Act 2014 and piloted in the West Midlands will be extended to the rest of the country without the need for further legislation. Under this scheme, landlords and landladies have a duty to check the immigration status documents of prospective tenants and not to rent to those disqualified from renting because of their immigration status. In addition to the existing civil penalty scheme, under which landlords, landladies and their agents risk fines of up to £3000 per tenant, the Bill creates new criminal offences for renting to those who do not have the right to rent. The Secretary of State may also give written notice to a landlord or landlady that their tenant has not right to rent, which would oblige the landlord or landlady to end the tenancy or risk a criminal sanction. The landlord or landlady would remain at risk of such a sanction during the 28 day notice period they are required to give before evicting a tenant.

### **English language requirement for public sector workers**

Public authorities would be required to ensure that those working for the organisation in a customer-facing role speak fluent English. The requirement could be extended to private contractors providing a service on behalf of public authority through regulations in the future. The authority or contractor would be required to operate an adequate procedure for enabling and handling complaints by members of the public about the English language skills of their employees. The requirements affect those employed or personally contracted by the public authority as well as agency workers hired by the authority.

### **Immigration skills charge**

An immigration skills charge would come into effect two months after the Bill became an Act. This would require an employer sponsoring a skilled worker from outside the European Economic Area to pay an additional charge for each worker sponsored. This levy would then be used to fund apprenticeships in the UK. Details are left to regulations.

### **Provisions affecting employees**

Under proposals in the Bill, the Home Office would be able to require that a person appealing on human rights grounds against a decision on their immigration case bring their appeal from outside the UK, unless their removal to do so would breach their human rights or cause 'serious and irreversible harm'. This may lead to disruption to business activities where employees are required to leave the country to appeal against wrong decisions made by the Home Office.

The Bill would also create a new power enabling the Home Office to cancel leave provided under section 3C of the Immigration Act 1971 when a person is extending or varying their leave to remain. It would apply where the Home Office believed the individual had used deception in their application or breached a condition of their leave. However, if the Home Office made a mistake in this decision, the individual would have no leave to remain or entitlement to work whilst challenging the decision.