



# information sheet

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**Zoe Harper, ILPA Legal Officer** [zoe.harper@ilpa.org.uk](mailto:zoe.harper@ilpa.org.uk)

**Immigration Law Practitioners' Association** [www.ilpa.org.uk](http://www.ilpa.org.uk) 020-7251 8383 (t) 020-7251 8384 (f)

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## **IMMIGRATION ACT 2016: THE LABOUR MARKET**

The Immigration Act 2016 introduces new measures aimed at enforcing labour market standards and reducing the exploitation of workers. This information sheet explains the different measures that will be implemented.

### **Director of Labour Market Enforcement**

A new role of Director of Labour Market Enforcement will be established under provisions of the Immigration Act 2016 that were brought into force on 12 July 2016.

The Director of Labour Market Enforcement will be responsible for assessing the scale and nature of non-compliance with labour market legislation in the UK. The Director and their organisation will monitor problems such as non-payment of the national minimum wage by employers, offences committed by employment agencies in the recruitment of workers, modern slavery offences connected to labour exploitation and breaches of licence conditions with which agencies supplying workers to particular industries must comply.

Ministers confirmed that, as part of this work, the Director would monitor and report on the extent to which victims of labour exploitation were able to obtain remedies, such as back-payment of the national minimum wage that was owed to them.

The Director will be required to develop an annual strategy to tackle these problems within the labour market. They will co-ordinate the functions of three existing bodies which work to ensure compliance with different employment standards: the Gangmasters and Labour Abuse Authority (see below), the Employment Agency Standards Inspectorate (which regulates employment agencies) and the National Minimum Wage Team that sits within HM Revenue and Customs (the UK's tax, payments and customs authority). The Director will be able to recommend how funding should be allocated between the three bodies to most effectively address non-compliance with labour market standards.

The new role of Director of Labour Market Enforcement was generally welcomed when it was considered in Parliament. However, there were concerns about the broad nature of information-sharing powers granted to facilitate the work. The Director will have powers to disclose information received in the course of the work to specified labour market, local government and law enforcement bodies, including the immigration service. Ministers stated in parliament, however, that the Director would not get involved in enforcing immigration laws.

## **Gangmasters and Labour Abuse Authority**

By provisions that came into force on 12 July 2016, the Gangmasters Licensing Authority was renamed the Gangmasters and Labour Abuse Authority to reflect an expansion in its functions.

The Gangmasters and Labour Abuse Authority is responsible for regulating businesses that provide workers to the agricultural and shellfish industries to make sure they meet the employment standards required by law. Under the Immigration Act 2016, this licensing role can be extended to cover more industries and these will be listed in regulations. The Gangmasters Licensing and Labour Abuse Authority has also been given new police-style enforcement powers to prevent, detect and investigate worker exploitation across all sectors of the labour market.

The Gangmasters and Labour Abuse Authority will have the power to ask the police or immigration service for assistance in carrying out its functions. In the same way, the police or immigration service may call on the Gangmasters and Labour Abuse Authority for assistance in carrying out their functions. These provisions have given rise to concerns about the potential for joint labour inspection and immigration operations that could discourage victims of labour exploitation who have an insecure immigration status from coming forward. Such joint inspections have been criticised by the Special Rapporteur on the Human Rights of Migrants for this reason. The Gangmasters and Labour Abuse Authority may choose not to do this even though it has these powers.

Concerns were also raised about whether the expanded Gangmasters and Labour Abuse Authority would have sufficient resources to carry out all of its activities effectively.

## **Labour Market Enforcement Undertakings and Orders**

The Immigration Act 2016 also introduces new provisions aimed at tackling breaches of labour market legislation. The Government considered that the existing system of fines were not sufficient to deal with the kinds of serious or repeated offences seen so it has introduced provisions that work like an Anti-Social Behaviour Order (ASBO) for employers.

Under the new provisions, individuals, companies or associations that have committed or are committing labour market offences, such as offences connected with non-payment of the national minimum wage, the conduct of employment agencies or gangmaster licensing conditions, may be given a notice asking them to voluntarily give an undertaking (formal commitment) to comply with specific measures. The measures will be described in regulations and are aimed at preventing or reducing the risk of not complying with their legal obligations. This **Labour Market Enforcement Undertaking** would last for a specific period up to a maximum of two years.

If the person or company chose not to give an undertaking or if they breached their undertaking, the organisation responsible for enforcing labour standards could apply to a Magistrates' Court (or Sheriff's Court in Scotland) for a **Labour Market Enforcement Order** to be imposed instead. This would also contain measures to prevent or reduce the risk of not complying with labour market requirements and would last for up to two years. There would be a right of appeal against the court decision to make or refuse an order. Failure to comply with a Labour Market Enforcement Order imposed by the Court would be a criminal offence with a maximum sentence of two years imprisonment and/or a fine.

The Labour Market Enforcement Undertakings and Orders will come into force on 25 November 2016.