

## SCHEDULES

### SCHEDULE 6

#### ILLEGAL WORKING CLOSURE NOTICES AND ILLEGAL WORKING COMPLIANCE ORDERS

##### *Illegal working closure notices*

- 1 (1) An immigration officer of at least the rank of chief immigration officer may issue an illegal working closure notice in respect of premises if satisfied on reasonable grounds that the conditions in sub-paragraphs (3) and (6) are met.
- (2) An illegal working closure notice is a notice which prohibits, for a period specified in the notice—
  - (a) access to the premises other than by a person who habitually lives on the premises, except where authorised in writing by an immigration officer;
  - (b) paid or voluntary work being performed on the premises, except where so authorised.
- (3) The condition in this sub-paragraph is that an employer operating at the premises is employing a person over the age of 16 and subject to immigration control—
  - (a) who has not been granted leave to enter or remain in the United Kingdom, or
  - (b) whose 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) Where a person is on immigration bail within the meaning of Part 1 of Schedule 10—
  - (a) the person is to be treated for the purposes of sub-paragraph (3) as if the person had been granted leave to enter the United Kingdom, but
  - (b) any condition as to the person's work in the United Kingdom to which the person's immigration bail is subject is to be treated for those purposes as a condition of leave.
- (5) A person falling within sub-paragraph (3) is referred to in this Schedule as an “illegal worker”.
- (6) The condition in this sub-paragraph is that the employer, or a connected person in relation to the employer—
  - (a) has been convicted of an offence under section 21 of the Immigration, Asylum and Nationality Act 2006 (“the 2006 Act”),
  - (b) has, during the period of three years ending with the date on which the illegal working closure notice is issued, been required to pay a penalty under section 15 of the 2006 Act, or
  - (c) has at any time been required to pay such a penalty and failed to pay it.

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*Status: This is the original version (as it was originally enacted).*

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- (7) Sub-paragraph (6)(a) does not apply in relation to a conviction which is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27)).
- (8) For the purposes of sub-paragraph (6)(b) and (c)—
- (a) a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay the penalty if—
    - (i) the person is excused payment by virtue of section 15(3) of that Act, or
    - (ii) the penalty is cancelled by virtue of section 16 or 17 of that Act;
  - (b) a person to whom such a notice has been given is not to be treated as having been required to pay the penalty until such time as—
    - (i) the period for giving a notice of objection under section 16 of the 2006 Act has expired and the Secretary of State has considered any notice given within that period, and
    - (ii) if a notice of objection was given within that period, the period for appealing under section 17 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.
- (9) For the purposes of sub-paragraph (6), a person is a connected person in relation to an employer if—
- (a) where the employer is a body corporate, the person is—
    - (i) a director, manager or secretary of the body corporate,
    - (ii) purporting to act as a director, manager or secretary of the body corporate, or
    - (iii) if the affairs of the body corporate are managed by its members, a member of the body corporate;
  - (b) where the employer is a partnership (whether or not a limited partnership), the person is a partner or purporting to act as a partner;
  - (c) where the employer is an individual, the person is—
    - (i) a body corporate of which the individual has at any time been a director, manager or secretary,
    - (ii) a body corporate in relation to which the individual has at any time purported to act as a director, manager or secretary,
    - (iii) a body corporate whose affairs are managed by its members and the individual has at any time been a member of the body corporate,
    - (iv) a partnership (whether or not a limited partnership) in which the individual has at any time been a partner or in relation to which the individual has at any time purported to act as a partner.
- (10) An illegal working closure notice may not be issued if the employer shows in relation to the employment of each illegal worker that if a penalty notice were given under section 15 of the 2006 Act the employer would be excused under subsection (3) of that section from paying the penalty.
- (11) An illegal working closure notice may be issued only if reasonable efforts have been made to inform—
- (a) people who live on the premises (whether habitually or not), and
  - (b) any person who has an interest in the premises,

that the notice is going to be issued.

- (12) Before issuing an illegal working closure notice the immigration officer must ensure that any person the officer thinks appropriate has been consulted.
- (13) The Secretary of State may by regulations amend sub-paragraph (1) to change the rank specified in that sub-paragraph.