
STATUTORY INSTRUMENTS

2016 No. 1058

The Illegal Working Compliance Orders Regulations 2016

Citation and commencement

1.—(1) These Regulations may be cited as the Illegal Working Compliance Orders Regulations 2016.

(2) These Regulations come into force on 1st December 2016.

Commencement Information

II Reg. 1 in force at 1.12.2016, see [reg. 1\(2\)](#)

Interpretation

2. In these Regulations—

“administrative review” means review conducted under the immigration rules;

“biometric immigration document” has the same meaning as in section 5 of the UK Borders Act 2007⁽¹⁾;

“derivative right of residence” has the same meaning as in regulation 15A of the Immigration (European Economic Area) Regulations 2006⁽²⁾;

“document” means an original document;

[^{F1}“employee”, except in regulations 4(2), 4(3), 5A(2) and 5A(3), includes a reference to a prospective employee]

[^{F2}“Home Office Employer Checking Service” means the enquiry and advice service for employers operated by the Home Office;]

[^{F3}“Home Office online right to work checking service” means the electronic system allowing employers to check whether a person is allowed to work in the United Kingdom and, if so, the nature of any restrictions on that person’s right to do so.]

[^{F4}“identity document validation technology” means technology operated by a person for the purpose of verifying the identity of another person (“the subject”), whereby a digital copy of a physical document relating to the subject is produced by or in relation to the subject for verification of—

(a) the document’s validity, and

(b) whether the subject is the rightful holder of the document;]

[^{F4}“IDVT identity check” means the response generated by an IDVT identity service provider, using identity document validation technology, when undertaking identity verification with respect to a person;]

(1) 2007 c. 30.

(2) S.I. 2006/1003. Regulation 15A was inserted by S.I. 2012/1547 and was amended by S.I. 2012/2560, S.I. 2013/3032 and S.I. 2015/694.

[^{F4}“IDVT identity service provider” means a person that provides identity verification services using identity document validation technology;]

“immigration rules” has the same meaning as in section 33 of the Immigration Act 1971(3);

[^{F3}“online right to work check” means the response generated by the Home Office online right to work checking service in relation to a person;]

“Positive Verification Notice” means a document issued by the Home Office Employer Checking Service which indicates that the person named in it is allowed to stay in the United Kingdom and is allowed to do the work in question;

“registration certificate” means a certificate issued to a national of an EEA state or Switzerland as proof of the holder’s right of residence in the United Kingdom as at the date of issue;

[^{F4}“relevant IDVT document” means a document falling within the description in paragraph 1 or 1A of Schedule 1 and which has not expired;]

“relevant person” means a person required to comply with these Regulations by virtue of an illegal working compliance order;

“residence card” means a card issued to a person who is not a national of an EEA state or Switzerland as proof of the holder’s right of residence in the United Kingdom as at the date of issue.

Textual Amendments

- F1** Words in [reg. 2](#) substituted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, **3(2)(b)**
- F2** Words in [reg. 2](#) inserted (6.4.2022) by [The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations 2022 \(S.I. 2022/242\)](#), regs. 1(1)(b), 5(2)
- F3** Words in [reg. 2](#) inserted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, **3(2)(a)**
- F4** Words in [reg. 2](#) inserted (6.4.2022) by [The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations 2022 \(S.I. 2022/242\)](#), regs. 1(1)(b), 10(2)

Commencement Information

- I2** [Reg. 2](#) in force at 1.12.2016, see [reg. 1\(2\)](#)

Obligation to conduct right to work checks

3. Where an illegal working compliance order requires a person to carry out checks relating to the right to work in accordance with these Regulations, the person must comply with [^{F5}any of regulations 4, [^{F6}4A,] 5 or 5A] in respect of each of their employees within the scope of the order.

Textual Amendments

- F5** Words in [reg. 3](#) substituted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, **3(3)**
- F6** Word in [reg. 3](#) inserted (6.4.2022) by [The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations 2022 \(S.I. 2022/242\)](#), regs. 1(1)(b), 10(3)

Commencement Information

I3 Reg. 3 in force at 1.12.2016, see [reg. 1\(2\)](#)

Right to work checks: prescribed documents

- 4.—(1) A relevant person must—
- (a) require the employee to produce to them a document or combination of documents relating to the employee described in Schedule 1 or 2; and
 - (b) comply with the requirements in regulation 6.
- (2) Where a document or combination of documents described in Schedule 2 provides that the employment is permitted for a limited period, a relevant person is deemed to comply with this regulation for a further period if the relevant person is satisfied on reasonable grounds that—
- (a) the employee has an outstanding application to vary his or her leave to enter or remain in the United Kingdom; or
 - (b) the employee has an appeal or administrative review pending against a decision on that application.
- (3) In paragraph (2), the further period begins on the date on which the limited period expires and ends—
- (a) after 28 days; or
 - (b) if earlier, on the date on which the Secretary of State gives the relevant person written notice that the employee does not have the right to undertake the employment in question.

Commencement Information

I4 Reg. 4 in force at 1.12.2016, see [reg. 1\(2\)](#)

[^{F7}Right to work checks: IDVT identity check

- 4A. A relevant person must—
- (a) obtain in relation to the employee from an IDVT identity service provider an IDVT identity check which shows that there exists in relation to the employee a relevant IDVT document,
 - (b) receive from the IDVT identity service provider a copy of the IDVT identity check, and the document checked, in a format which cannot be subsequently altered,
 - (c) reasonably believe that the IDVT identity service provider has complied with the requirements set out in article 6A(1), and
 - (d) comply with the requirements set out in article 6A(2).]

Textual Amendments

F7 [Reg. 4A](#) inserted (6.4.2022) by The Immigration (Restrictions on Employment and Residential Accommodation) (Prescribed Requirements and Codes of Practice) and Licensing Act 2003 (Personal and Premises Licences) (Forms), etc., Regulations 2022 ([S.I. 2022/242](#)), regs. 1(1)(b), 10(4)

Right to work checks: Positive Verification Notice

- 5.—(1) A relevant person must—

- (a) obtain a Positive Verification Notice in respect of the employee (subject to paragraph (2)); and
- (b) comply, if applicable, with the requirement in regulation 6(2).

(2) A relevant person does not comply with this regulation if a period of more than six months has elapsed beginning with the date the Positive Verification Notice was obtained under paragraph (1)(a).

Commencement Information

I5 Reg. 5 in force at 1.12.2016, see [reg. 1\(2\)](#)

[^{F8}Right to work checks: Home Office online right to work checking service

5A.—(1) A relevant person must—

- (a) use the Home Office online right to work checking service in respect of an employee;
- (b) obtain an online right to work check confirming that the employee named in it is allowed to work in the United Kingdom and is allowed to do the work in question;
- (c) be satisfied that any photograph on the online right to work check is of the employee;
- (d) retain a clear copy of the online right to work check for a period of not less than two years after the employment has come to an end; and
- (e) comply, if applicable, with the requirement in regulation 6(2).

(2) Where the online right to work check [^{F9}confirms that the employee has leave to enter or remain on the date that the online right to work check is conducted] for a limited period, a relevant person is deemed to comply with this regulation for a further period if the relevant person is satisfied on reasonable grounds that—

- (a) the employee has an outstanding application to vary his or her leave to enter or remain in the United Kingdom; or
- (b) the employee has an appeal or administrative review pending against a decision on that application.

(3) In paragraph (2), the further period begins on the date on which the limited period expires and ends—

- (a) after 28 days; or
- (b) if earlier, on the date on which the Secretary of State gives the relevant person written notice that the employee does not have the right to undertake the employment in question.]

[^{F10}(4) Paragraph (2) does not apply where the online right to work check confirms that the person had a right to work on the date of the check by virtue of a pending application, administrative review or appeal.]

Textual Amendments

F8 Reg. 5A inserted (28.1.2019) by *The Immigration (Restrictions on Employment) (Code of Practice and Miscellaneous Amendments) Order 2018* (S.I. 2018/1340), arts. 1, **3(4)**

F9 Words in reg. 5A(2) substituted (2.2.2023) by *The Immigration (Restrictions on Employment etc.) (Amendment) (EU Exit) Regulations 2023* (S.I. 2023/12), regs. 1(2), **3(2)(a)**

F10 Reg. 5A(4) inserted (2.2.2023) by *The Immigration (Restrictions on Employment etc.) (Amendment) (EU Exit) Regulations 2023* (S.I. 2023/12), regs. 1(2), **3(2)(b)**

Right to work checks: general requirements

- 6.—(1) The requirements of this regulation are that—
- (a) the relevant person takes all reasonable steps to check the validity of the document and retains a record of the date on which any check was made;
 - (b) a [^{F11}clear] copy of that document or combination of documents is retained securely by the relevant person for the period during which the illegal working compliance order is in force;
 - (c) if a document contains a photograph purporting to be of the employee, the relevant person has satisfied himself that the photograph is of the employee;
 - (d) if a document contains a date of birth purporting to relate to the employee, the relevant person has satisfied himself that the date of birth is consistent with the appearance of the employee;
 - (e) the relevant person takes all other reasonable steps to verify that the employee is the rightful holder of the document;
 - (f) if the document is not a passport, the relevant person retains a [^{F12}clear] copy of the whole of the document;
 - (g) if the document is a passport, the relevant person retains a [^{F13}clear] copy of the following pages of that document—
 - (i) any page containing the holder’s personal details including nationality;
 - (ii) any page containing the holder’s photograph;
 - (iii) any page containing the holder’s signature;
 - (iv) any page containing the date of expiry; and
 - (v) any page containing information indicating the holder has an entitlement to enter or remain in the United Kingdom and undertake the work in question.
- (2) A further requirement, if the employee is a student who has permission to work for a limited number of hours per week during term time whilst studying in the United Kingdom, is that the relevant person must—
- (a) require the employee to provide details of the term and vacation dates of the course that the employee is undertaking; and
 - (b) retain a record of these details.

Textual Amendments

- F11** Word in reg. 6(1)(b) inserted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, **3(5)**
- F12** Word in reg. 6(1)(f) inserted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, **3(5)**
- F13** Word in reg. 6(1)(g) inserted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, **3(5)**

Commencement Information

- I6** Reg. 6 in force at 1.12.2016, see [reg. 1\(2\)](#)

[^{F14}Right to work checks: IDVT identity checks—requirements

6A.—(1) The requirements mentioned in article 4A(c) are, in relation to a relevant IDVT document produced for the purposes of an IDVT identity check in pursuance of article 4A(a), that—

- (a) the IDVT identity service provider takes all reasonable steps to check the validity of the document;
 - (b) the IDVT identity service provider records in a format that cannot be subsequently altered the date on which the check was carried out;
 - (c) the IDVT identity service provider is satisfied that the photograph is of the employee;
 - (d) the IDVT identity service provider is satisfied that the date of birth is consistent with the appearance of the employee;
 - (e) the IDVT identity service provider takes all reasonable steps to verify that the employee is the rightful holder of the document;
 - (f) where the document is a passport which is not in the form of a card, the IDVT identity service provider retains a clear copy of the following pages of that document in a format which cannot be subsequently altered—
 - (i) any page containing the holder’s personal details including nationality;
 - (ii) any page containing the holder’s photograph;
 - (iii) any page containing the date of expiry;
 - (g) where the document is a travel document in the form of a card, the IDVT identity service provider retains a clear copy of the whole of that document in a format which cannot be subsequently altered.
- (2) The requirements mentioned in article 4A(d) are that—
- (a) the relevant person is satisfied that the photograph of the individual contained in the information received by the relevant person in accordance with article 4A(b) is of the employee;
 - (b) the relevant person retains a clear copy of the IDVT identity check, and the documents checked, for a period of not less than two years after the employment has come to an end.]

Textual Amendments

F14 [Reg. 6A](#) inserted (6.4.2022) by The Immigration (Restrictions on Employment and Residential Accommodation) (Prescribed Requirements and Codes of Practice) and Licensing Act 2003 (Personal and Premises Licences) (Forms), etc., Regulations 2022 ([S.I. 2022/242](#)), regs. 1(1)(b), 10(5)

Obligation to produce documents to an immigration officer

7. Where an illegal working compliance order requires a person to produce documents relating to the right to work to an immigration officer in accordance with these Regulations, the person must comply with [^{F15}any of regulations 8, 9 [^{F16}, 9A or 9B]] in respect each of their employees within the scope of the order.

Textual Amendments

F15 Words in [reg. 7](#) substituted (28.1.2019) by The Immigration (Restrictions on Employment) (Code of Practice and Miscellaneous Amendments) Order 2018 ([S.I. 2018/1340](#)), arts. 1, **3(6)**

F16 Words in [reg. 7](#) substituted (6.4.2022) by The Immigration (Restrictions on Employment and Residential Accommodation) (Prescribed Requirements and Codes of Practice) and Licensing Act

2003 (Personal and Premises Licences) (Forms), etc., Regulations 2022 (S.I. 2022/242), regs. 1(1)(b),
10(6)

Commencement Information

I7 Reg. 7 in force at 1.12.2016, see [reg. 1\(2\)](#)

Documents to be produced to an immigration officer: general

- 8.—(1) A relevant person must produce—
- (a) a [F17 clear] copy of a document or a [F17 clear] copy of a combination of documents relating to the employee described in Schedule 1 or 2 in accordance with paragraphs (2) and (3); and
 - (b) if the employee is a student who has permission to work for a limited number of hours per week during term time whilst studying in the United Kingdom, a document or [F17 clear] copy of a document which records the details of the term and vacation dates of the course that the employee is undertaking.
- (2) In respect of a passport, the relevant person must produce a [F17 clear] copy of the following pages of that document—
- (a) any page containing the holder’s personal details including nationality;
 - (b) any page containing the holder’s photograph;
 - (c) any page containing the holder’s signature;
 - (d) any page containing the date of expiry; and
 - (e) any page containing information indicating the holder has an entitlement to enter or remain in the United Kingdom and undertake the work in question.
- (3) In respect of a document which is not a passport, the relevant person must produce a [F17 clear] copy of the whole of the document.

Textual Amendments

F17 Word in [reg. 8](#) inserted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, [3\(7\)](#)

Commencement Information

I8 Reg. 8 in force at 1.12.2016, see [reg. 1\(2\)](#)

Documents to be produced to an immigration officer: Positive Verification Notice

9. A relevant person must produce—
- (a) a Positive Verification Notice which has been obtained in respect of the employee within the preceding period of six months from the date on which it is produced to an immigration officer; and
 - (b) if the employee is a student who has permission to work for a limited number of hours per week during term time whilst studying in the United Kingdom, a document or copy of a document which records the details of the term and vacation dates of the course that the employee is undertaking.

Commencement Information

19 Reg. 9 in force at 1.12.2016, see [reg. 1\(2\)](#)

[^{F18} Documents to be produced to an immigration officer: Home Office online right to work checking service

9A. A relevant person must produce—

- (a) a clear copy of the online right to work check; and
- (b) if the employee is a student who has permission to work for a limited number of hours per week during term time whilst studying in the United Kingdom, a document or clear copy of a document which records the details of the term and vacation dates of the course that the employee is undertaking.]

Textual Amendments

F18 [Reg. 9A](#) inserted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, **3(8)**

[^{F19} Documents to be produced to an immigration officer: IDVT identity check

9B. A relevant person must produce a clear copy of the IDVT identity check and the document checked.]

Textual Amendments

F19 [Reg. 9B](#) inserted (6.4.2022) by [The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations 2022 \(S.I. 2022/242\)](#), regs. 1(1)(b), **10(7)**

Restriction on retention of documents

10. Nothing in these Regulations permits a relevant person to retain documents produced by an employee [^{F20} or the Home Office] for the purposes of these Regulations for any period longer than is necessary for the purposes of ensuring compliance with regulation [^{F21} 6, 8, 9 [^{F22}, 9A or 9B]].

Textual Amendments

- F20** Words in [reg. 10](#) inserted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, **3(9)(a)**
- F21** Words in [reg. 10](#) substituted (28.1.2019) by [The Immigration \(Restrictions on Employment\) \(Code of Practice and Miscellaneous Amendments\) Order 2018 \(S.I. 2018/1340\)](#), arts. 1, **3(9)(b)**
- F22** Words in [reg. 10](#) substituted (6.4.2022) by [The Immigration \(Restrictions on Employment and Residential Accommodation\) \(Prescribed Requirements and Codes of Practice\) and Licensing Act 2003 \(Personal and Premises Licences\) \(Forms\), etc., Regulations 2022 \(S.I. 2022/242\)](#), regs. 1(1)(b), **10(8)**

Changes to legislation: There are currently no known outstanding effects for the The
Illegal Working Compliance Orders Regulations 2016. (See end of Document for details)

Commencement Information

I10 Reg. 10 in force at 1.12.2016, see [reg. 1\(2\)](#)

Robert Goodwill
Minister of State
Home Office

Changes to legislation:

There are currently no known outstanding effects for the The Illegal Working Compliance Orders Regulations 2016.