

This guidance is based on the Immigration Acts



Preventing illegal working

This guidance is based on the Immigration Acts

Preventing illegal working

About this guidance

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This guidance is for all staff involved in enforcement operations to detect illegal workers.</p> <p>To make sure the actions taken when conducting illegal working operations are correct and legal you must be familiar with the:</p> <ul style="list-style-type: none">• relevant legislation (see related links):<ul style="list-style-type: none">○ Section 8 – Asylum and Immigration Act 1996○ Section 6 – Asylum and Immigration Act 2004○ Immigration Order 2004○ Immigration Order 2007○ Immigration Order 2014○ Section 15 to 26 – Immigration, Asylum and Nationality Act 2006,○ Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013, and• powers of an immigration officer (some of these powers are also used by police officers and the Secretary of State) relating to operations on business premises. See link on left: Powers of a Home Office officer. <p>This guidance does not replace the Immigration Acts or Civil Penalty regulations. You must read the relevant sections and articles together with this guidance.</p> <p>All references to illegal worker (with the exception of Croatian nationals) refer to a person:</p> <ul style="list-style-type: none">• who is subject to immigration control, aged over 16, and• whose conditions of stay do not allow them to work or to carry out the type of work in question, including those whose conditions have expired. <p>Changes to this guidance – This page tells you what has changed since previous versions of this guidance.</p>	<p>In this section</p> <p>Changes to this guidance</p> <p>Contacts</p> <p>Information owner</p> <p>Related links</p> <p>Links to staff intranet removed</p>
---	---	---

This guidance is based on the Immigration Acts

	<p>Contact – This page tells you who to contact for help if your senior caseworker or line manager is unable to answer your question.</p> <p>Information owner – This page tells you about this version of the guidance and who owns it.</p> <p>Safeguarding and promoting child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.</p>	
--	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Changes to this guidance

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you what changes have been made to the ‘Preventing illegal working’ guidance.</p> <table border="1"> <thead> <tr> <th data-bbox="490 438 831 480">Date of the change</th> <th data-bbox="831 438 1532 480">Details of the change</th> </tr> </thead> <tbody> <tr> <td data-bbox="490 480 831 630">31 July 2014</td> <td data-bbox="831 480 1532 630">Change request to bring the guidance in line with new regulations for the civil penalty scheme.</td> </tr> <tr> <td data-bbox="490 630 831 1195">19 December 2013</td> <td data-bbox="831 630 1532 1195"> <p>Six month review by the modernised guidance team:</p> <ul style="list-style-type: none"> • A2 national’s employment restrictions: <ul style="list-style-type: none"> ○ new third paragraph • Checklist for referrals sent to the civil penalty compliance team (CPCT): <ul style="list-style-type: none"> ○ second paragraph, seventh bullet point new • Employer requests check on immigration status of individuals: <ul style="list-style-type: none"> ○ third paragraph and bullet points deleted • Minor housekeeping changes. </td> </tr> <tr> <td data-bbox="490 1195 831 1345"></td> <td data-bbox="831 1195 1532 1345">For previous changes you will need to access the archived guidance. See related link: Illegal working – archive.</td> </tr> </tbody> </table>	Date of the change	Details of the change	31 July 2014	Change request to bring the guidance in line with new regulations for the civil penalty scheme.	19 December 2013	<p>Six month review by the modernised guidance team:</p> <ul style="list-style-type: none"> • A2 national’s employment restrictions: <ul style="list-style-type: none"> ○ new third paragraph • Checklist for referrals sent to the civil penalty compliance team (CPCT): <ul style="list-style-type: none"> ○ second paragraph, seventh bullet point new • Employer requests check on immigration status of individuals: <ul style="list-style-type: none"> ○ third paragraph and bullet points deleted • Minor housekeeping changes. 		For previous changes you will need to access the archived guidance. See related link: Illegal working – archive .	<p>Related links</p> <p>See also</p> <p>Contact</p> <p>Information owner</p> <p>Links to staff intranet removed</p>
Date of the change	Details of the change									
31 July 2014	Change request to bring the guidance in line with new regulations for the civil penalty scheme.									
19 December 2013	<p>Six month review by the modernised guidance team:</p> <ul style="list-style-type: none"> • A2 national’s employment restrictions: <ul style="list-style-type: none"> ○ new third paragraph • Checklist for referrals sent to the civil penalty compliance team (CPCT): <ul style="list-style-type: none"> ○ second paragraph, seventh bullet point new • Employer requests check on immigration status of individuals: <ul style="list-style-type: none"> ○ third paragraph and bullet points deleted • Minor housekeeping changes. 									
	For previous changes you will need to access the archived guidance. See related link: Illegal working – archive .									

This guidance is based on the Immigration Acts

Preventing illegal working

Powers of a Home Office officer

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you where to find guidance and information about the powers available when you carry out illegal working operations.</p> <p>The powers of a Home Office officer are in the Immigration Act 1971 and the Immigration and Asylum Act 1999. For more information see related links.</p> <p>Those relevant to immigration officers carrying out illegal working operations are the powers:</p> <ul style="list-style-type: none">• to detain• to set reporting conditions• to arrest a person liable to detention• to enter and search premises or search a detained person• of arrest, entry or search• to fingerprint• which relate to facilitation and harbouring. <p>Further information can be found in the relevant chapters of the enforcement instructions and guidance as follows:</p> <ul style="list-style-type: none">• powers to detain – Chapter 16: powers• power to arrest a person liable to detention – Chapter 16: powers• power to enter and search premises or search a detained person – Chapter 16: powers• powers of arrest, entry or search – Chapter 16: powers• power to set reporting conditions – Chapter 55.20: detention and temporary release• powers to fingerprint – Chapter 24: fingerprinting• powers relating to facilitation and harbouring – Chapter 16.5: assisting unlawful immigration. <p>For more information see related links.</p>	<p>Related links Links to staff intranet removed</p> <p>External links</p> <p>Immigration Act 1971</p> <p>Immigration and Asylum Act 1999</p>
---	---	---

This guidance is based on the Immigration Acts

Preventing illegal working

Croatian nationals

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This section tells you about Croatian nationals and their employment restrictions from 1 July 2013.</p> <p>For more information on the regulations relating to Croatian nationals see link on the left 'Relevant regulations'.</p>	<p>In this section</p> <p>Croatian nationals employment restrictions</p> <p>What is a Croatian minor?</p>
---	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

Croatian nationals employment restrictions

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells staff involved in enforcement operations to detect illegal workers, what a Croatian national's employment restrictions are.</p> <p>On 1 July 2013 the Republic of Croatia joined the European Union (EU). From this date, as European Economic Area (EEA) nationals, Croatians have been able to exercise their Treaty rights to enter and reside freely within the UK.</p> <p>However, the Government has applied transitional restrictions on the access of Croatian nationals to the UK labour market. This means that a Croatian national is only able to work in the UK if they hold a valid accession worker authorisation document or if they are exempt from work authorisation. A Croatian national will be exempt from the requirement to get a worker authorisation document when they have been working legally and continuously in the UK for 12 months.</p> <p>An accession worker authorisation document will take the form of a worker authorisation registration certificate or purple registration certificate, which the Croatian national must apply for. This document will contain an endorsement restricting the holder's employment to a particular employer and category of employment.</p> <p>Where a Croatian national is in the UK exercising Treaty rights as a self-sufficient person or self-employed person, they will not need to be issued any documentation to do this, but can apply for a yellow registration certificate if they wish. The fact, however, that a Croatian national, or their engager, claims that they are working on self-employed terms does not necessarily mean that this is the true nature of their employment status.</p> <p>In considering whether a Croatian national's work amounts to genuine self-employment (and therefore not subject to worker authorisation requirements), you may take into consideration the factors set out at HM Revenue & Customs – Employment Status, see related link. For more information, see related link: Preventing illegal working: frequently</p>	<p>In this section</p> <p>Croatian nationals</p> <p>What is a Croatian minor?</p> <p>Links to staff intranet removed</p>
---	---	---

This guidance is based on the Immigration Acts

	<p>asked questions provides further information.</p> <p>Where a Croatian national is in the UK exercising Treaty rights as a student, they will need to get a yellow registration certificate if they want to work while they study. The yellow registration certificate must be obtained before they start work and will allow employment for up to 20 hours during term time and full-time during vacation periods.</p> <p>See related link: Guidance for employers on preventing illegal working: Croatian nationals, for further information on who needs a worker authorisation document and who is exempt from the requirement.</p>	
--	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

What is a Croatian minor?

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells staff involved in enforcement operations to detect illegal workers who are Croatian minors and the action to take if they are found working in the UK.</p> <p>You must not serve fixed penalty notices (FPNs) on anyone under 16 years old. Under child employment laws, if Croatians nationals under 16 are found working, you must refer them to social services. An arrest using immigration powers is inappropriate.</p> <p>16 to 17 year olds can be served with FPNs. Safeguarding under 18s is always a consideration when deciding whether to take action or not. The juvenile court needs to be assured the process is followed correctly.</p> <p>You must carefully consider your statutory duty to children, under section 55 of the Borders, Citizenship and Immigration Act 2009, before you apply the instructions in this guidance either to children or people with children.</p> <p>For more information on section 55 see related link: Safeguard and promote child welfare.</p>	<p>In this section</p> <p>Croatian nationals</p> <p>Croatian nationals employment restrictions</p> <p>Links to staff intranet removed</p>
---	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

Definition of employer

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells staff involved in enforcement operations to detect illegal workers, what the two definitions are for an employer and what is expected from them under the respective laws.</p> <p>There are different definitions, one under the Immigration Asylum and National Act 2006 (the 2006 Act) and another under the Accession of Croatia Regulations 2013 (the 2013 Regulations).</p> <p>Under the 2006 Act an employer is someone who engages another person in a contract of employment. This may be a contract of:</p> <ul style="list-style-type: none">• service, or• apprenticeship. <p>The contract of employment can be expressed orally, in writing or implied.</p> <p>Under the 2006 Act an employer is not liable for:</p> <ul style="list-style-type: none">• the employees of a contractor• a genuine self-employed person or freelancer, or• workers from an employment agency who continue to be employees of that agency. <p>Under the 2013 Regulations an employer is someone who directly pays the wage or salary of a worker.</p> <p>Employers may offer a wage, a one-off payment, accommodation or food, or a combination of these, in exchange for the worker's labour.</p> <p>During an illegal working operation you need to gather evidence to show who the employer is. Some of the tasks that can assist you are:</p>	<p>Links to staff intranet removed</p>
---	---	--

This guidance is based on the Immigration Acts

- questioning the employees
- checking for contracts of employment
- checking for wage or payment slips
- checking the insurance certificate for the premises, and
- checking with Her Majesty's Revenue & Customs (HMRC).

Employers must carry out document checks as required. This is to make sure a potential employee has the correct permission to undertake the work in question before employing them, and an existing employee with time-limited permission continues to have the right to work for them. For more information about the documents checks an employer is required to check, including the frequency of follow-up checks, see related links:

- [Right to work checks: employer's guide](#)
- [Guidance for employers on preventing illegal working: Croatian nationals.](#)

This guidance is based on the Immigration Acts

Preventing illegal working

Pre-visit actions

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This section explains the actions to be carried out before conducting an illegal working operation.</p> <p>If illegal working is suspected, you must:</p> <ul style="list-style-type: none">• Check if the business concerned was visited within the last three years. The process is different for repeat visits and the consequence for the employer of non-compliance is potentially different.• Identify the owner of the business and establish if the employer is someone different.• Consider your powers of entry to the business premises.• Identify if the employer is a licensed sponsor and check their current status with the sponsor management unit. <p>You must also check the compliance position with Her Majesty's Revenue & Customs (HMRC).</p> <p>For further information on pre-visit actions see related links:</p> <ul style="list-style-type: none">• Repeat visits• Intelligence unit actions• Powers of entry.	<p>In this section</p> <p>Repeat visits</p> <p>Intelligence unit actions</p> <p>Powers of entry</p>
---	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Repeat visits

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page explains what actions to take before carrying out a repeat illegal working visit on business premises.</p> <p>If illegal working is suspected, you must check if the business concerned has been visited within the last three years.</p> <p>To establish if a business premises has been visited in the last three years, you must use the national operations database (NOD). For more information see related link: National operations database (nodMMX).</p> <p>If you identify a previous visit through nodMMX, you must contact the civil penalty compliance team (CPCT). They will tell you the status of the first visit. This will help you decide whether to carry out a repeat visit.</p> <p>For contact details for the CPCT, see related link: Email Home Office civil penalty compliance team.</p> <p>Repeat visits to employers previously issued with a Civil Penalty or Warning Notice that has not been discharged following an objection or appeal must be referred to the local crime team or crime trained member of an enforcement team to consider criminal action against the employer. If the crime team or crime-trained member of the enforcement team rejects the criminal option then you must take enforcement and civil penalty referral action. You must proceed as normal.</p> <p>If proceeding as normal, the referral pack sent to CPCT must highlight a previous visit was made. This makes sure full consideration is given when the penalty is set.</p> <p>For more information on referral packs and how to send them, see related link: Checklist for referrals sent to the civil penalty compliance team (CPCT).</p>	<p>In this section</p> <p>Pre-visit actions</p> <p>Intelligence unit actions</p> <p>Powers of entry</p> <p>Links to staff intranet removed</p>
---	---	---

This guidance is based on the Immigration Acts

	<p>For further guidance on actions to take before conducting an illegal working operation see related links:</p> <ul style="list-style-type: none">• Intelligence unit actions• Powers of entry.	
--	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

Intelligence unit actions

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page explains what actions the regional intelligence units must take before conducting an illegal working operation.</p> <p>Before an operation you must identify the owner of the business and establish if the employer is someone different.</p> <p>If you do not know who the employer is, the details of the owner of the business must be entered into the employer field on the national operations database (NOD). The correct employer information can be added after the operation.</p> <p>The employer will be the owner of the business unless they have delegated responsibility for employment to another party, for example, the manager.</p> <p>Sources that can assist you in identifying the owner or employer of a business are:</p> <ul style="list-style-type: none">• Fire service records – fire safety legislation.• Companies House checks.• HM Revenue & Customs (HMRC) – who is registered for paying value added tax (VAT), PAYE income tax or national insurance (NI)?• Who is registered for paying business rates?• Food safety or Trading standards records.• 192.com – online directory enquiries where business searches can be conducted.• Local licensing authorities - all licensing authorities keep a register containing a record of, for example, personal, premises, vendor, taxi licences. Contact the local authority for advice.• Land Registry – identifying owner of land and/or premises or who do they rent to? <p>For more information about employers see link on the left: Definition of employer</p>	<p>In this section</p> <p>Pre-visit actions</p> <p>Repeat visits</p> <p>Powers of entry</p> <p>Links to staff intranet removed</p>
---	--	---

This guidance is based on the Immigration Acts

Preventing illegal working

Powers of entry

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you where to find further information on your powers of entry to a business premises when carrying out an illegal working operation.</p> <p>Before conducting an illegal working operation you must consider the powers available for gaining entry to the business premises.</p> <p>For example, is a warrant required or do the powers provided to Home Office officers cover the purpose of the visit?</p> <p>For more information on the powers of entry to a business premises, see related links:</p> <ul style="list-style-type: none">• 31 Enforcement visits• 16 Powers. <p>For enforcement guidance on entry by informed consent, see related link: 61 Arrest Teams – operational procedures.</p> <p>For enforcement guidance on obtaining and executing warrants, see related link: 34 Warrants.</p>	<p>In this section</p> <p>Pre-visit actions</p> <p>Repeat visits</p> <p>Intelligence unit actions</p> <p>Links to staff intranet removed</p>
---	---	---

This guidance is based on the Immigration Acts

Preventing illegal working

Actions during an illegal working operation

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This section tells you the actions to carry out during an illegal working enforcement operation.</p> <p>The Home Office cannot force employers to terminate the contracts of illegal workers. However, you must advise the employer they will be prosecuted if, following this visit, you find that worker is still employed by them.</p> <p>See related links for further guidance on:</p> <ul style="list-style-type: none">• Considering evidence of a statutory excuse• Issuing a No Action Notice• Issuing a Referral Notice• Recording evidence of a breach• Making notes• Questioning the employee• Questioning the employer• Seizure of evidence• What the courts require• Refugee status and humanitarian protection• Interpreters.	<p>In this section</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p>
---	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

Considering evidence of a statutory excuse

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you how to consider evidence of a statutory excuse during an illegal working operation.</p> <p>If you find illegal workers during an operation, you must provide the employer or the most appropriate responsible person present representing the employer or the business, with an opportunity at this time to prove to you they have complied fully with the law. You must do this by asking the employer to show you evidence that they have established a statutory excuse for any illegal workers found, by correctly undertaking the required document checks.</p> <p>You must consider any evidence presented to you of a statutory excuse against the published criteria set out in the statutory excuse checksheet for immigration compliance and enforcement (ICE) teams, and taken from the statutory code of practice on preventing illegal working, and the published guidance. Where a positive verification notice (official communication from the Home Office employer checking service stating someone is allowed to undertake the work in question) is presented, you must verify the authenticity of this document by checking the CID person notes for the named worker it is issued for, to prove the unique reference number matches the one on the notice.</p> <p>The officer in charge (OIC) will make the decision, after cross-referencing evidence through the statutory excuse checksheet, whether the employer should be issued with a no action notice, a referral notice or both. The OIC must call the duty CIO of the specific operation for approval before issuing a no action notice in all operations.</p> <p>The OIC must record the evidence and reasons for the notice type(s) issued during an operation in their pocket notebook.</p> <p>For more information on the statutory excuse criteria when determining the notice type(s) to issue see related link: Avoiding civil penalties: statutory excuse checksheet.</p>	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	--	--

This guidance is based on the Immigration Acts

		Links to staff intranet removed
--	--	---------------------------------

This guidance is based on the Immigration Acts

Preventing illegal working

Issuing a no action notice

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you how to issue a no action notice to an employer during an illegal working operation.</p> <p>You must complete an enforcement version of the no action notice (NAN-E) and issue it at the time of the visit to the employer or representative of the business for all identified illegal workers where there is clear evidence of a statutory excuse, and the officer in charge (OIC) has made the decision, and sought duty chief immigration officer (CIO) approval, to issue this notice type.</p> <p>The NAN-E must be completed with the:</p> <ul style="list-style-type: none">• name of the person it is issued to• person's position in the business• date the notice was given• relevant enforcement visit reference• date the breach(es) of section 15 were encountered• business address where the breach(es) were encountered• names, nationalities and dates of birth of the illegal workers to which this notice applies (meaning those illegal workers with a statutory excuse), and• applicable 'worker number' and the right to work status of the illegal workers confirming whether they have no permission or restricted permission to work in the UK. <p>You must complete and issue as many NAN-Es as are required to cover the number of identified illegal workers to which this notice type applies.</p> <p>When issuing a NAN-E you must identify the person responsible for employing the illegal worker(s). For example, an agency that recruits on behalf of the business but is not the employer is not liable. But an agency that directly employs the workers they supply to a business is liable.</p>	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	--	--

This guidance is based on the Immigration Acts

	<p>If the employer cannot be identified, the NAN-E must be issued to the most appropriate responsible person present representing the employer or the business.</p> <p>You must record on the national operations database (NOD) when this notice type has been issued during an illegal working operation, why and for whom. A copy must be kept on record of all NAN-Es issued by the enforcement office responsible for the operation.</p> <p>You must also send a scanned copy of the NAN-E to civil penalty compliance team (CPCT) within 14 days of the visit date, which is a service level agreed timeframe for all performance reporting.</p>	
--	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Issuing a referral notice

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you how to issue a referral notice to an employer during an illegal working operation.</p> <p>You must complete a referral notice (RN) and issue it to the employer or representative of the business in respect of all identified illegal workers where there is no clear evidence of a statutory excuse, and the officer in charge (OIC) has made the decision to issue this notice type.</p> <p>The RN must be completed with the:</p> <ul style="list-style-type: none">• name of the person to whom it is issued• person's position in the business• date the notice was given• relevant enforcement visit reference• employer's name• employer's registered address• business type• VAT and company number (where applicable)• names of any directors and/or owners• date the breach(es) of section 15 were encountered• business address where the breach(es) were encountered• names, nationalities and dates of birth of the illegal workers to which this notice applies (meaning those illegal workers without a statutory excuse), and• reason for the referral for each of the named illegal workers. <p>You must complete and issue just one RN and then as many additional worker supplements (AWS) as are required to cover the number of identified illegal workers to which this notice type applies.</p>	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	--	---

This guidance is based on the Immigration Acts

	<p>When issuing a RN you must identify the person responsible for employing the illegal worker(s). For example, an agency that recruits on behalf of the business but does not employ them is not liable. But an agency that directly employs the workers they supply to a business is liable.</p> <p>If the employer cannot be identified, the RN and AWS (if applicable) must be issued to the most appropriate responsible person present representing the employer or the business.</p> <p>You must record on national operations database (NOD) when this notice type has been issued during an illegal working operation, why and for whom. A copy must be kept on record of the RN any AWSs issued by the enforcement office responsible for the operation.</p> <p>You must also send the civil penalty compliance team 'CPCT copy' of the RN and any AWS, together with all supporting evidence (the referral pack) to CPCT within 14 days of the visit date, which is a service level agreed timeframe for all performance reporting.</p>	
--	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Issuing a fixed penalty notice

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you how to issue fixed penalty notices (FPN) to Croatian nationals found during an illegal working operation.</p> <p>If you find Croatian nationals working without permission, you must:</p> <ul style="list-style-type: none">• caution the employer• complete the corresponding booklet, and• serve the corresponding FPN and explanatory notice depending on which regulations the offence was under. <p>The Croatian booklets contain templates for:</p> <ul style="list-style-type: none">• recording the details of the visit, for example:<ul style="list-style-type: none">○ the address○ power of entry, and○ scene notes• witness statements, and• issuing a referral notice. <p>FPNs are numbered for auditing and monitoring purposes and must not be photocopied and re-used.</p> <p>A copy must be retained for the enforcement office records and a copy sent (by recorded delivery) to the fixed penalty coordinator at the civil penalty compliance team (CPCT) for consideration.</p> <p>You must update CID with the FPN details. For instructions on how to do this see related link: A2 CID Guidance.</p>	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Recording evidence of a breach

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you about recording evidence of a breach of the law during an illegal working operation.</p> <p>It is important that you consider what evidence you need to support a civil penalty or conviction. You will need to make a judgement of the evidence for the actions you are investigating or when you make an arrest and subsequent seizure.</p> <p>If you believe a criminal offence was committed, you must stop questioning immediately and take advice from a Home Office crime team or a police officer.</p> <p>This is to make sure operations, including the seizure of evidence and interviews with illegal workers, employers and witnesses, are fully compliant with the Police and Criminal Evidence Act (PACE) or the Criminal Procedure (Scotland) Act 1995.</p> <p>An employer could be liable for both criminal and civil sanctions but this may not be determined until after the visit. This is because offences about people employed before 29 February 2008 will come under section 8 of the Asylum and Immigration Act 1996 which only allowed a criminal sanction against employers. It is also possible that the employer has committed an offence of knowingly employing an illegal worker under section 21 of the Immigration, Asylum and Nationality Act 2006.</p>	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Making notes

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you about the notes you must take during an illegal working operation.</p> <p>Witness statements must contain references to documents or interviews. These must be labelled as ‘exhibits’ (or ‘productions’ if in Scotland). All statements must describe the observations of the Home Office officer or police officer writing it.</p> <p>The main points to note in the witness statements are:</p> <ul style="list-style-type: none"> • Time and date of the visit. • Names of Home Office colleagues present and those from other government departments. • Questions asked of the employer and employee. • Where the employee was encountered and what they were wearing. • The activities of the employee. • Who the owner of the business is (not the owner of the premises). • Any documentation that has been seen that clearly details the employer. For example, licensing agreements, health and safety certificates. • The status of the company. For example, sole trader, limited company. • Any evidence of effective recruitment practices and general compliance with right to work check requirements (if applicable) as defined in the code of practice on preventing illegal working. • Any evidence of active cooperation as defined in the code of practice on preventing illegal working. • Any evidence of reporting suspected illegal working that has previously been received, for which a unique Home Office (HO) reference number has been provided by the employer. <p>If an employee states they are ‘helping out’ you must conduct further questioning to establish if they were ‘helping out’ in exchange for food and/or accommodation. Consider</p>	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	---	--

This guidance is based on the Immigration Acts

	<p>any other relevant evidence of employment.</p> <p>The premises search book (PSB) must be completed for all illegal working operations by the member of staff designated as the PSB officer.</p> <p>All other staff on the operation must record their notes at the scene in an issued pocket notebook (PNB). These are individual to the Home Office members of staff. They must be used to record your activities during operations and to assist in completing the witness statements later.</p> <p>The primary evidence of illegal working is found in these notes.</p>	
--	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

Interpreters: how to use them on an illegal working visit

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page explains how to use interpreters on an illegal working visit.</p> <p>Chapter 39 of the enforcement instructions and guidance tells you how to use interpreters on an illegal working visit, see related link: 39 Interpreters – used in operational enforcement activity.</p> <p>If there is doubt about a person’s ability to understand English, you must use an interpreter, recognised by the Home Office, to carry out the interview. This means:</p> <ul style="list-style-type: none"> • a colleague accredited by the Home Office in that language • an official interpreting service, for example, Big Word, or • an interpreter from the national database of casual interpreters maintained by the central interpreters unit (CIU). <p>If you use a Home Office colleague to interpret, you must make it clear in witness statements that they hold the appropriate Home Office language accreditation, that the civil penalty compliance team (CPCT) can evidence correct procedures are followed. CPCT cannot rely on evidence gathered during ‘unofficial’ interpreting.</p> <p>Evidence obtained using unofficial interpreters, for example an unaccredited colleague or another worker, must not be relied on when considering if someone is liable for a civil penalty.</p>	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Questioning the employee

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page lists the questions you must ask the employee during an illegal working visit.</p> <p>You may ask questions relating to a breach of section 15 of the Immigration, Asylum and Nationality (IAN) Act 2006 or regulation 11 of the Accession of Croatia Regulations 2013 as part of an interview under the Police and Criminal Evidence Act (PACE), if the employee is arrested for an immigration offence using a criminal power of arrest.</p> <p>When an illegal working breach is identified, every effort must be made to make sure sufficient information and evidence about the employee is collected.</p> <p>The information needed from the employee is:</p> <ul style="list-style-type: none"> • Their employer’s details. • The duties they carry out. • What they receive in return for carrying out those duties and when? This could be money or payment in kind, such as food or accommodation. • The details of the person who pays them. • The hours and days of the week they work. • The date they started work and any documents they have to confirm the start date. • What documentation they provided to the employer, if any, to show they were allowed to work before they were employed? • If a temporary migrant, what documentation they provided to the employer to show they were allowed to work at the time of any follow up check? <p>You must also record the following observations in the notes:</p> <ul style="list-style-type: none"> • Where they were found in the premises visited? • What they were doing, for example, were they involved in a work activity? • What they were wearing, for example, were they wearing work clothes? 	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	---	--

Students

If the employee is a student who is permitted to work you also need to establish:

- where they attend their studies
- what they are studying, and
- if they are in term time or vacation time as this may affect employer liability for a civil penalty.

You must ask the employer for evidence of the term and vacation times, which, from 16 May 2014, they are required to obtain and copy, to get a statutory excuse. You must consider whether to contact the place of study and verify this information. This requirement is not retrospective, so does not apply to students whose employment commenced before 16 May 2014 until a follow-up check is required.

Applications for leave as a student who is permitted to work made before 3 March 2010

If an application for leave as a student was made before 3 March 2010 the student can work for no more than 20 hours in term time regardless of the level of course.

Applications for leave as a student who is permitted to work made after 3 March 2010

After 3 March 2010 the hours they can work depends on the level of the course:

- Students at degree level or above may work for no more than 20 hours each week in term time.
- Students below degree level may work for no more than 10 hours each week in term time.

They can all work full-time during vacations. If their place of study has closed down they have 60 days to find a new college or course. This time is classed as vacation, during which they can work full-time. After 60 days, if the student has not notified temporary migration of the new college or course, temporary migration must curtail the student's outstanding leave.

This guidance is based on the Immigration Acts

	<p>Note that not all students are permitted to work. Entitlement will be clearly indicated by an endorsement.</p> <p>The Zhou judgement Full and current guidance on the Zhou judgment can be found in chapter 50.7 of the enforcement instructions and guidance (EIG) see related link: 50 Persons liable to administrative removal under section 10.</p> <p>For more information about students, see related link: Studying in the UK and the Employer's Guide to Right Work Checks, Annex B.</p>	
--	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Questioning the employer

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page lists the questions you must ask the employer during an illegal working visit.</p> <p>When illegal working is identified, you must make every effort to make sure sufficient information and evidence about the employer is collected.</p> <p>If you suspect, during questioning, criminal offences have taken place under:</p> <ul style="list-style-type: none">• section 21 of the Immigration, Asylum and Nationality (IAN) Act 2006 (knowingly employing illegal workers)• regulations 16 or 17 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013• section 25 of the Immigration Act 1971 (facilitation), or• section 57 to section 59 of the Sexual Offences Act 2003 (trafficking) <p>you must stop questioning immediately and discuss the case with a member of a Home Office crime team.</p> <p>The information needed from an employer or the person of highest responsibility present (this could be the suspected illegal worker) is:</p> <ul style="list-style-type: none">• The employer's details including whether the employer is:<ul style="list-style-type: none">○ a sole trader○ limited company○ partnership○ franchise, or○ another entity.• What duties the suspected illegal worker carries out?• What they receive in return for carrying out those duties? For example, money or payment in kind, such as food or accommodation.• The hours and days of the week they work.	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	--	--

This guidance is based on the Immigration Acts

- The date they started work and any documents they have to confirm the start date.
- What documentation they gave the employer, if any, to show they were eligible to work?
- Were the documents cleanly copied by the employer?
- Has the employer recorded the date on which the documents were copied?
- Were the right pages copied? For passports:
 - any page with the document expiry date
 - nationality and date of birth
 - biometric information details
 - photograph
 - any page containing information indicating the holder has an entitlement to be in the UK and undertake the work in question, and
 - from 16 March 2016, the front of a passport does not need to be copied.
- Other documents are to be copied in full, including both sides of a biometric residence permit.
- Has the employer recorded the date on which the documents were copied?

If copies of these documents are provided you must retain them.

From 16 May 2014, you must get information about what evidence the employer holds of the academic term and vacation dates of any illegal employed students?

You must refer to the avoiding civil penalties: statutory excuse checklist for the published criteria on establishing and maintaining an excuse. See related external link.

The information must be included in the referral pack sent to the civil penalty compliance team (CPCT) by recorded delivery within 14 working days of the visit.

This guidance is based on the Immigration Acts

Preventing illegal working

Seizure of evidence

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you about the seizure of evidence from illegal working operations where a criminal offence may have been committed.</p> <p>Material considered of substantial value to the criminal investigation can be seized under powers of an immigration and police officer under Section 28FA (3) of the Immigration Act 1971.</p> <p>Section 29 (1) of the Data Protection Act 1998 explains how some records are exempt from disclosure and the requirement for data to be processed fairly and lawfully. The employer and/or the Home Office are not obliged to tell the illegal worker their records or data have been seized.</p> <p>Any personal data seized is protected under the Data Protection Act but may be shared with:</p> <ul style="list-style-type: none">• the police• other government departments, and• local authorities. <p>The employer is allowed to photocopy any documents being removed from the site. You can share these documents with other parts of the Home Office if they have an interest in the:</p> <ul style="list-style-type: none">• illegal worker• documents, or• business. <p>There is no timescale for returning these documents once the investigation is complete as the prosecution team may need to use some of them as evidence.</p> <p>Evidence that is useful includes:</p>	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>What the courts require</p> <p>Refugee status and humanitarian protection</p> <p>Links to staff intranet removed</p>
---	---	---

This guidance is based on the Immigration Acts

	<ul style="list-style-type: none">• personal details of those working without permission• dates of employment• photographs taken at the scene• notes taken at the time of visit, and• closed circuit television (CCTV) footage – this can be seized where there are reasonable grounds to believe that a criminal offence has been captured on the CCTV camera footage.	
--	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

What the courts require

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you the information needed by a court when deciding the nature of an employment relationship following prosecution for illegal working.</p> <p>This is in case there is a civil penalty appeal.</p> <p>Civil penalty cases</p> <p>In civil penalty cases the three conditions judges look for, in line with Ready Mixed Concrete v Ministry of Pensions are:</p> <ul style="list-style-type: none">• Remuneration: a wage or other method of payment given for work carried out by the employee.• Control: the worker is subject to control by the employer in that the employer for example:<ul style="list-style-type: none">○ recruits○ is responsible for providing work for their employees○ decides what work their employee is going to do and how it will be done.• Obligation: mutuality of obligation. Both parties, the employer and the employee, have contractual obligations to each other. For example, the:<ul style="list-style-type: none">○ worker performs work as directed by the employer and they have a job scope and/or a job description○ contract sets out the hours, days and dates the employee will work, and○ employer pays the employee for the work. <p>Prosecution cases</p> <p>The following tests are applied by the courts:</p> <ul style="list-style-type: none">• The control test: does the alleged employer have the right to control not just what the worker does, but the way in which they do it.• The organisational test: is the worker an integral part of the alleged employer's organisation.	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>Refugee status and humanitarian protection</p>
---	---	--

This guidance is based on the Immigration Acts

- The economic reality test: who bears the risk of loss and the chance of profit? If it is the worker, then they are probably not an employee, but rather an independent contractor. If the worker is working for several different people at the same time, this would suggest they have their own business and are self-employed.

The courts also consider:

- Method of payment.
- Method of selection and termination of the relationship.
- The extent to which the worker can choose their hours and method of work.
- If they can delegate.
- If they pay as you earn (PAYE) and national insurance (NI) contributions are deducted from any payment.
- How the parties themselves see the relationship. And
- The extent to which the parties expect to be called upon to work and to provide work. A loose arrangement where work is provided and done when necessary, suggests self-employment. But a genuine expectation of work being provided consistently indicates employment.

You must consider these tests when undertaking an illegal working operation, and search for evidence to support them.

You must consider taking action against the employer if, when the tests are applied:

- there is sufficient evidence to support the 'employer-employee' relationship, and
- it appears the employer has not established a statutory excuse against a civil penalty liability.

This guidance is based on the Immigration Acts

Preventing illegal working

Refugee status and humanitarian protection

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page is for Home Office staff involved in operations to detect illegal workers.</p> <p>It tells you what to do when a person with refugee or humanitarian protection (HP) status, whose leave is about to expire or has expired, is discovered during an operation.</p> <p>Refugees are allowed to remain in the UK if they demonstrate a well-founded fear of persecution under one of the grounds in the 1951 Geneva Convention. If a person does not qualify for refugee status but there are substantial grounds for believing, if returned to their country of origin, there is a real risk they would suffer serious harm, that person is granted HP instead.</p> <p>Anyone granted refugee status before 30 August 2005 will have indefinite leave to remain (ILR) once they are recognised as a refugee.</p> <p>Anyone granted HP between 1 April 2003 and 29 August 2005 will be granted three years' limited leave, at the end of which they can apply for ILR.</p> <p>Anyone granted refugee status or HP on or after 30 August 2005 will be given five years' limited leave, at the end of which they can apply for ILR.</p> <p>If a refugee or person with HP applies for further leave out of time (after their limited leave has expired) or does not apply for further leave at all, they maintain their refugee or HP status but do not continue to have the right to work until they have obtained further leave. In such circumstances they can not work even though they cannot be removed unless their refugee or HP status is revoked.</p> <p>The first refugees granted limited leave in 2005 could apply for ILR from July 2010, a month before their leave expired. When undertaking illegal working operations you may encounter employees who are refugees or have HP, and whose leave has expired or is about to expire.</p>	<p>In this section</p> <p>Actions during an illegal working operation</p> <p>Considering evidence of a statutory excuse</p> <p>Issuing a No Action Notice</p> <p>Issuing a Referral Notice</p> <p>Issuing a Fixed Penalty Notice</p> <p>Recording evidence of a breach</p> <p>Making notes</p> <p>Interpreters - how to use them on an illegal working visit</p> <p>Questioning the employee</p> <p>Questioning the employer</p> <p>Seizure of evidence</p> <p>What the courts require</p> <p>Links to staff intranet removed</p>
---	--	--

If so, you must encourage the refugee or person with HP to apply immediately to the Home Office for ILR, free of charge, on a SET (Protection Route) application form (available on the Home Office website). If they have any questions about the application, refer them to the immigration enquiry bureau page of the website. See related link: Home Office website – immigration enquiry bureau.

You must email the contact details of the refugee or person with HP status to the settlement protection inbox (see related link). The team will update CID and send out correspondence to encourage the refugee to apply for settlement.

If the refugee or person with HP has made an in-time application for further leave, you must reassure the employer that the refugee or person with HP has an ongoing right to work while the application is being considered and the application must be submitted without delay. Advise the employer to continue to follow the current guidance for employers on the Home Office website. See related link: Preventing illegal working: frequently asked questions.

Under section 15 of the Immigration Asylum and Nationality (IAN) Act 2006 an employer may be liable for a civil penalty if an employee does not have permission to undertake the work in question.

In view of their right to work you must not include an employee who is currently a refugee or person with HP status with valid leave or an ongoing application for further leave on a referral notice.

Under section 21 of the Immigration, Asylum and Nationality Act 2006 an employer commits a criminal offence if they employ somebody knowing that they do not have permission to undertake the work in question. It is preferable in these cases to encourage the employee to regularise their leave. The Crown Prosecution Service (CPS) advice is to treat each case on its individual merits. You must consider each case carefully. It is not in the public interest to pursue a criminal prosecution of an employer found to be employing a recognised refugee or person with HP who has valid leave or an outstanding application for further leave.

Any general enquiries about illegal working can be directed to the sponsorship, employers

This guidance is based on the Immigration Acts

and education helpline.

Contact details can be found on the contacts page, see related link: [Contact](#).

This guidance is based on the Immigration Acts

Preventing illegal working

Asylum seekers and failed asylum seekers

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells Home Office staff about asylum seekers and failed asylum seekers.</p> <p>Asylum seekers and failed asylum seekers have to be granted a right to work by the Home Office before they can work. As part of the implementation of the EU Reception Conditions Directive, paragraph 360 of the Immigration Rules was amended to reflect that from 5 February 2005 asylum applicants who have been waiting for a year for an initial decision may apply for permission to work.</p> <p>Paragraph 360 of the Immigration Rules was further amended on 9 September 2010 to:</p> <ul style="list-style-type: none">• provide for failed asylum seekers obtaining permission to work in certain circumstances, following the Supreme Court judgment in ZO (Somalia), and• restrict the type of employment asylum seekers and failed asylum seekers can take up, to jobs on the shortage occupation list. <p>Paragraph 360 says:</p> <ul style="list-style-type: none">• only asylum seekers who have not received an initial decision on their claim within 12 months and failed asylum seekers who have made further submissions on asylum grounds, but who have not received a decision on those further submissions after 12 months, can apply for permission to work• they will not be eligible for permission to work if any delay was their fault• those granted permission to work will be subject to the following restrictions:<ul style="list-style-type: none">○ they may only work in a job which is included on the shortage occupation list (at the time an offer of employment is accepted)○ they may not be employed in a self-employed capacity, and○ they may not set up a business• permission to work will come to an end:<ul style="list-style-type: none">○ for asylum seekers, once the asylum application has been finally determined (that is, once appeal rights are exhausted)	<p>Links to staff intranet removed</p>
---	---	--

This guidance is based on the Immigration Acts

- for failed asylum seekers, once a negative decision has been taken on a further submission or, in the event that appeal rights are granted, those appeals are exhausted.

The Home Office does not review applicants' qualifications and experience when considering permission to work applications. It is the responsibility of the applicant and their potential employer to make sure the job is one which is included on the list of shortage occupations published by the Home Office.

The asylum seeker and failed asylum seekers' right to work ends once their asylum claim or further submission is decided. An employer has a time-limited statutory excuse if they check the individual's application registration card (ARC) which states that the holder is permitted to take the employment in question with the employer checking service and receive a positive verification notice in response. The time-limited statutory excuse will expire six months from the date on the notice.

For more information on the Home Office national shortage occupation list, see related link.

This guidance is based on the Immigration Acts

Preventing illegal working

Post-visit actions

<ul style="list-style-type: none">About this guidancePowers of a Home Office officerCroatian nationalsDefinition of employerPre-visit actionsActions during an illegal working operationAsylum seekers and failed asylum seekersPost-visit actionsRelevant regulationsContact from employers	<p>This section explains what actions you must carry out following an illegal working operation.</p>	<p>In this section</p> <ul style="list-style-type: none">Recording informationWritten debriefWitness statementsReferring illegal working casesChecklist for referrals sent to the civil penalty compliance team (CPCT)National operations database (NOD)
---	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Recording information

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you what information to record on the national operations database (NOD) and CID following an illegal working operation.</p> <p>Recording information - NOD</p> <p>You must update NOD with the following information, the:</p> <ul style="list-style-type: none">• outcome of the visit• offenders detected• correct employer details, if different from the employer information previously added, and• notices types issued during the operation, refusal notice (RN), no action notice (NAN-E) or both. <p>Recording Croatian national information - CID</p> <p>The service of a fixed penalty notice (FPN) must be recorded on CID. For instructions on how to do this on see related link: A2 CID Guidance.</p>	<p>In this section</p> <p>Post-visit actions</p> <p>Written debrief</p> <p>Witness statements</p> <p>Referring illegal working cases</p> <p>Checklist for referrals sent to the civil penalty compliance team (CPCT)</p> <p>National operations database (NOD)</p> <p>Links to staff intranet removed</p>
---	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

Written debrief

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page explains who needs to provide a written debrief following an illegal working operation and the information that must be included.</p> <p>The officer in charge (OIC) of the operation must complete a written debrief which will include:</p> <ul style="list-style-type: none">• the names and personal details of the offenders identified• the potential offences• the evidence available• the level of active cooperation provided by the employer as defined in the code of practice on preventing illegal working• evidence of prior reporting of illegal workers before the visit (for which the employer must have a unique reference number), and• the evidence and reasons for issuing any no action notice (NAN-Es) and/or refusal notice (RN). <p>The OIC must sign-off the written debrief before it is added to the referral pack. This must be sent by recorded delivery to the criminal and financial investigation team (CFI) or the civil penalty compliance team (CPCT) within 14 calendar days of the visit.</p> <p>See related links:</p> <ul style="list-style-type: none">• Email: Criminal investigation review team• Email: Home Office civil penalty compliance team.	<p>In this section</p> <p>Post-visit actions</p> <p>Recording information</p> <p>Witness statements</p> <p>Referring illegal working cases</p> <p>Checklist for referrals sent to the civil penalty compliance team (CPCT)</p> <p>National operations database (NOD)</p> <p>Links to staff intranet removed</p>
---	--	--

This guidance is based on the Immigration Acts

		Links to staff intranet removed
--	--	---------------------------------

This guidance is based on the Immigration Acts

Preventing illegal working

Witness statements

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you about who needs to give witness statements following an illegal working operation.</p> <p>Witness statements (MG11) are needed from all Home Office and police staff who are actively or directly involved in the illegal working operation.</p> <p>Staff are not considered to be actively involved in an illegal working operation if they have not:</p> <ul style="list-style-type: none">• served any immigration notices on any persons on the site• interviewed any persons on site• searched or found evidence, or• witnessed the illegal working activity.	<p>In this section</p> <p>Post-visit actions</p> <p>Recording information</p> <p>Written debrief</p> <p>Referring illegal working cases</p> <p>Checklist for referrals sent to the civil penalty compliance team (CPCT)</p> <p>National operations database (NOD)</p>
---	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Referring illegal working cases

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you about where to refer illegal working breaches.</p> <p>You must send a referral to the criminal and financial investigation team (CFI) and civil penalty compliance team (CPCT) within 14 calendar days of the referral notice being issued. This is a service level agreed timeframe and performance against this will be reported back to immigration, compliance and enforcement (ICE) teams. The referral pack must be securely packaged and sent by recorded delivery.</p> <p>CPCT will consider the referred case and issue the employer with either, a civil penalty notice (CPN), a no action notice (NAN) or a warning notice (WN) as appropriate about illegal workers identified on the referral notice (RN).</p> <table border="1" data-bbox="465 770 1774 1374"> <thead> <tr> <th>Date employment began:</th> <th>Applicable legislation:</th> <th>Refer case to:</th> </tr> </thead> <tbody> <tr> <td>From 27 January 1997 to 28 February 2008</td> <td>S8 1996 Act</td> <td>Local CFI</td> </tr> <tr> <td>From 29 February 2008 onwards</td> <td>S15/S21 2006 Act</td> <td>S21 to CFI S15 to CPCT (Manchester)</td> </tr> <tr> <td>Mix of offenders employed both before and after 29 February 2008</td> <td>S8 1996 Act S15/S21 2006 Act</td> <td>S8 and S21 to CFI S15 to CPCT (Manchester)</td> </tr> <tr> <td>Dates not known or verified</td> <td>S8 1996 Act and/or S15/S21 2006 Act</td> <td>S8 and S21 to CFI S15 to CPCT (Manchester)</td> </tr> <tr> <td>For Croatian nationals fixed penalty notice (FPN): from 1 July 2013 onwards</td> <td>Regulation 16 (Accession of Croatia Regulations 2013)</td> <td>Fixed penalty coordinator CPCT (Manchester)</td> </tr> <tr> <td>For Croatian nationals (prosecution): from 1 July 2013 onwards</td> <td>Regulations 16 and 17 (Accession of Croatia Regulations 2013)</td> <td>Local CFI (Prosecution cases only)</td> </tr> </tbody> </table>	Date employment began:	Applicable legislation:	Refer case to:	From 27 January 1997 to 28 February 2008	S8 1996 Act	Local CFI	From 29 February 2008 onwards	S15/S21 2006 Act	S21 to CFI S15 to CPCT (Manchester)	Mix of offenders employed both before and after 29 February 2008	S8 1996 Act S15/S21 2006 Act	S8 and S21 to CFI S15 to CPCT (Manchester)	Dates not known or verified	S8 1996 Act and/or S15/S21 2006 Act	S8 and S21 to CFI S15 to CPCT (Manchester)	For Croatian nationals fixed penalty notice (FPN): from 1 July 2013 onwards	Regulation 16 (Accession of Croatia Regulations 2013)	Fixed penalty coordinator CPCT (Manchester)	For Croatian nationals (prosecution): from 1 July 2013 onwards	Regulations 16 and 17 (Accession of Croatia Regulations 2013)	Local CFI (Prosecution cases only)	<p>In this section</p> <p>Post-visit actions</p> <p>Recording information</p> <p>Written debrief</p> <p>Witness statements</p> <p>Checklist for referrals sent to the civil penalty compliance team (CPCT)</p> <p>National operations database (NOD)</p> <p>Links to staff intranet removed</p>
Date employment began:	Applicable legislation:	Refer case to:																					
From 27 January 1997 to 28 February 2008	S8 1996 Act	Local CFI																					
From 29 February 2008 onwards	S15/S21 2006 Act	S21 to CFI S15 to CPCT (Manchester)																					
Mix of offenders employed both before and after 29 February 2008	S8 1996 Act S15/S21 2006 Act	S8 and S21 to CFI S15 to CPCT (Manchester)																					
Dates not known or verified	S8 1996 Act and/or S15/S21 2006 Act	S8 and S21 to CFI S15 to CPCT (Manchester)																					
For Croatian nationals fixed penalty notice (FPN): from 1 July 2013 onwards	Regulation 16 (Accession of Croatia Regulations 2013)	Fixed penalty coordinator CPCT (Manchester)																					
For Croatian nationals (prosecution): from 1 July 2013 onwards	Regulations 16 and 17 (Accession of Croatia Regulations 2013)	Local CFI (Prosecution cases only)																					

This guidance is based on the Immigration Acts

	For Croatian nationals (employer civil penalty): from 1 July 2013 onwards	Regulation 11 (Accession of Croatia Regulations 2013)	CPCT (Manchester)	
A referral that includes a mix of offenders can be split up so relevant cases and individuals are dealt with by the appropriate unit. For example, section 8 cases would go to the local CFI and section 15 to the CPCT.				

This guidance is based on the Immigration Acts

Preventing illegal working

Checklist for referrals sent to the civil penalty compliance team (CPCT)

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you which documents must be included in the referral packs sent to the civil penalty compliance team (CPCT).</p> <p>The following must be included in the referral pack:</p> <ul style="list-style-type: none">• Copies of the power of entry documents.• Copies of any evidence that is obtained by the end of the illegal working visit.• Witness statements (MG11 or Scottish equivalent) from all Home Office and police staff who are actively, or directly, involved in the illegal working operation or visit.• A copy of the premises search book.• A copy of the written debrief national operations database (NOD) version for staff with NOD access.• A copy of the referral notice (RN) and any additional worker supplements (AWSs) issued.• A print out of the CID person home screen (CID_FIND: Person/Case Search) for each illegal worker on the notice of potential liability (NOPL).• A copy of any fixed penalty notices (FPNs) issued to illegally employed Croatian nationals for an offence under Regulation 16(1) of the 2013 regulations.• A copy of the pocket note book (PNB) entries for all officers present on the visit.• A copy of the sanitised intelligence log. This is a log of the initial intelligence received but without the sensitive information about the informant.• A copy of the operational order or briefing.• A copy of the employer's details including if the employer is:<ul style="list-style-type: none">○ a sole trader○ limited company○ partnership○ franchise, or○ another entity.	<p>In this section</p> <p>Post-visit actions</p> <p>Recording information</p> <p>Written debrief</p> <p>Witness statements</p> <p>Referring illegal working cases</p> <p>National operations database (NOD)</p> <p>Links to staff intranet removed</p>
---	---	---

This guidance is based on the Immigration Acts

	Referral packs must be securely packaged and sent by recorded delivery to the CPCT. To contact CPCT, see related link Email: Home Office civil penalty compliance team.	
--	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

National operations database (NOD)

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page explains how to add information to the national operations database (NOD) following an illegal working operation.</p> <p>Complete nodMMX (MMX refers to the version of NOD currently in use) before sending a referral to the civil penalty compliance team (CPCT).</p> <p>The following screens must be updated:</p> <ul style="list-style-type: none">• notice of potential liability (NOPL) details screen• visit debrief screen:<ul style="list-style-type: none">○ 'Notification served' - tick the box○ 'Liability notice served' – tick the box. <p>For more information on how to access the nodMMX database and the range of guidance and training available to you, see related link: National operations database (nodMMX).</p>	<p>In this section</p> <p>Post-visit actions</p> <p>Recording information</p> <p>Written debrief</p> <p>Witness statements</p> <p>Referring illegal working cases</p> <p>Checklist for referrals sent to the civil penalty compliance team (CPCT)</p> <p>Links to staff intranet removed</p>
---	---	---

This guidance is based on the Immigration Acts

Preventing illegal working

Relevant regulations or acts

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This section provides details of the regulations or acts that apply to those found working illegally in the UK.</p>	<p>In this section</p> <p>Relevant regulations: non European Union</p> <p>Relevant regulations: European Union (EU)</p> <p>Facilitation or trafficking</p>
---	--	---

This guidance is based on the Immigration Acts

Preventing illegal working

Relevant regulations: non European Economic Area

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page explains the regulations relevant to non European Economic Area (EEA) migrants found working illegally in the UK.</p> <table border="1"><thead><tr><th data-bbox="465 440 860 480">Regulation or act:</th><th data-bbox="860 440 1254 480">Who does it cover:</th><th data-bbox="1254 440 1648 480">Sanction:</th></tr></thead><tbody><tr><td data-bbox="465 480 860 667">Section 8 - Asylum and Immigration Act 1996</td><td data-bbox="860 480 1254 667">Workers over 16, who have no right to work in the UK and are employed between 27 January 1997 - 28 February 2008</td><td data-bbox="1254 480 1648 667">Criminal offence: Section 8(4)</td></tr><tr><td data-bbox="465 667 860 887">Section 15 and 21 - Immigration, Asylum and Nationality Act 2006</td><td data-bbox="860 667 1254 887">Workers who are from outside the European Union (EU), who started work in the UK on, or after, 29 February 2008.</td><td data-bbox="1254 667 1648 887">Penalty notice: Section 15(2) Criminal offence: see Section 21(2)</td></tr></tbody></table>	Regulation or act:	Who does it cover:	Sanction:	Section 8 - Asylum and Immigration Act 1996	Workers over 16, who have no right to work in the UK and are employed between 27 January 1997 - 28 February 2008	Criminal offence: Section 8(4)	Section 15 and 21 - Immigration, Asylum and Nationality Act 2006	Workers who are from outside the European Union (EU), who started work in the UK on, or after, 29 February 2008.	Penalty notice: Section 15(2) Criminal offence: see Section 21(2)	<p>In this section</p> <p>Relevant regulations</p> <p>Relevant regulations: European Union (EU)</p> <p>Facilitation or trafficking</p> <p>Links to staff intranet removed</p>
Regulation or act:	Who does it cover:	Sanction:									
Section 8 - Asylum and Immigration Act 1996	Workers over 16, who have no right to work in the UK and are employed between 27 January 1997 - 28 February 2008	Criminal offence: Section 8(4)									
Section 15 and 21 - Immigration, Asylum and Nationality Act 2006	Workers who are from outside the European Union (EU), who started work in the UK on, or after, 29 February 2008.	Penalty notice: Section 15(2) Criminal offence: see Section 21(2)									

This guidance is based on the Immigration Acts

Preventing illegal working

Relevant regulations: European Economic Area (EEA)

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you the regulations relevant to European Economic Area (EEA) migrants (A2 nationals).</p> <table border="1" data-bbox="463 440 1626 922"> <thead> <tr> <th data-bbox="463 440 853 480">Regulation or act:</th> <th data-bbox="862 440 1238 480">Who does it cover:</th> <th data-bbox="1247 440 1626 480">Sanction:</th> </tr> </thead> <tbody> <tr> <td data-bbox="463 486 853 922">The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013</td> <td data-bbox="862 486 1238 922">Workers who are from Croatia who started work in the UK on or after 1 July 2013.</td> <td data-bbox="1247 486 1626 922">Employer civil offence: Regulation 11(1) Employer criminal offence: Regulation 15(1) Employee criminal offence: Regulation 16(1) Employee criminal offence: Regulation 17(1)</td> </tr> </tbody> </table>	Regulation or act:	Who does it cover:	Sanction:	The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013	Workers who are from Croatia who started work in the UK on or after 1 July 2013.	Employer civil offence: Regulation 11(1) Employer criminal offence: Regulation 15(1) Employee criminal offence: Regulation 16(1) Employee criminal offence: Regulation 17(1)	<p>In this section</p> <p>Relevant regulations</p> <p>Relevant regulations: non European Union</p> <p>Facilitation or trafficking</p> <p>Links to staff intranet removed</p>
Regulation or act:	Who does it cover:	Sanction:						
The Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013	Workers who are from Croatia who started work in the UK on or after 1 July 2013.	Employer civil offence: Regulation 11(1) Employer criminal offence: Regulation 15(1) Employee criminal offence: Regulation 16(1) Employee criminal offence: Regulation 17(1)						

This guidance is based on the Immigration Acts

Preventing illegal working

Facilitation or trafficking

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you where to find further guidance on facilitation and human trafficking.</p> <p>Human trafficking is the practice of tricking, luring or otherwise removing someone from their home or country, then forcing them to work for no or low payment or on terms which are highly exploitative.</p> <p>The victims of human trafficking are used in a variety of situations, including prostitution, forced labour and other forms of involuntary servitude.</p> <p>Facilitation describes people involved in the illegal trafficking of people across international borders.</p> <p>For more guidance on what to do if you suspect a person is involved in the facilitation or trafficking of another person, following an illegal working visit, see related link: Human trafficking.</p> <p>For more information on the powers used by Home Office officers who deal with offences relating to facilitation see link on left: Powers of a Home Office officer.</p>	<p>In this section</p> <p>Relevant regulations</p> <p>Relevant regulations: non European Union</p> <p>Relevant regulations: European Union (EU)</p> <p>Links to staff intranet removed</p>
---	--	---

This guidance is based on the Immigration Acts

Preventing illegal working

Contact from employers

About this guidance	This section gives guidance to Home Office staff dealing with employers who contact the Home Office about preventing illegal working.	In this section
Powers of a Home Office officer	The majority of reports about suspected illegal working come from employers.	Employer asks for general advice
Croatian nationals	Because this reporting may lead to enforcement action being taken against the same employer, it is essential a clear and transparent system is followed. Advice given to employers must be consistent across the Home Office.	Employer requests check on immigration status of individuals
Definition of employer		
Pre-visit actions	A compliant employer may not automatically avoid liability from prosecution or civil penalty action. Their cooperation and any other factors will be considered in the assessment of the penalty to be imposed.	Employer requests document check
Actions during an illegal working operation		Allegation handling
Asylum seekers and failed asylum seekers		Educational visits
Post-visit actions		
Relevant regulations		
Contact from employers		

This guidance is based on the Immigration Acts

Preventing illegal working

Employer asks for general advice

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you how to handle a request for general advice on preventing illegal working from an employer.</p> <p>You must refer them to either:</p> <ul style="list-style-type: none">• The sponsorship, employers and education helpline (0300 123 4699). This is a dedicated contact centre for employers who need advice and answers to general questions on preventing illegal working, or• The GOV.UK website. This provides access to guidance on preventing illegal working. The employer can check a person's permissions to work in the UK. <p>The employer's helpline logs allegations from employers if they suspect someone has been employed illegally after 29 February 2008. The employer is issued with a unique reference number (URN) and given contact details for their local immigration compliance and enforcements (ICE) team. It is important that allegations are referred to this helpline as the URN allows an employer to get a reduction in the value of any civil penalty they may be liable for, resulting from the same workers they report.</p> <p>The ICE team must contact the employer to decide what further action is appropriate. A URN is not provided for any other type of call.</p>	<p>In this section</p> <p>Contact from employers</p> <p>Employer requests check on immigration status of individuals</p> <p>Employer requests document check</p> <p>Allegation handling</p> <p>Educational visits</p> <p>Links to staff intranet removed</p>
---	---	---

This guidance is based on the Immigration Acts

Preventing illegal working

Employer requests check on immigration status of individuals

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you how to handle a request from an employer for checks on the immigration status of individuals.</p> <p>The onus is on employers to make a physical check of one or more acceptable documents in the presence of the holder to decide if someone has the right to work.</p> <p>The employer checking service (ECS) will only provide advice on the right to work in three specified circumstances, and only then can advice from the ECS (in the form of a positive verification notice) be relied upon to obtain and/or retain a statutory excuse.</p> <p>Employers who have questions about the process of conducting a right to work check must be directed to the sponsorship, employers and education helpline on 0300 123 4699, if the immigration compliance and enforcement (ICE) team is unable to answer them.</p> <p>If one of the list B – group 2 documents below is provided, it must be checked through the ECS:</p> <ul style="list-style-type: none">• certificate of application (for non European Economic Area (EEA) dependants and spouses) which are less than six months old• application registration cards (ARC) stating that the holder is permitted to take the employment in question• when the employer is reasonably satisfied that the employee or potential employee has an in time outstanding application or appeal against a Home Office decision. <p>List B can be found on the GOV.UK website, see related link: Home Office website - guidance for employers.</p> <p>You can direct the employer to the website which provides employers with a range of guidance:</p>	<p>In this section</p> <p>Contact from employers</p> <p>Employer asks for general advice</p> <p>Employer requests document check</p> <p>Allegation handling</p> <p>Educational visits</p> <p>Links to staff intranet removed</p>
---	--	---

This guidance is based on the Immigration Acts

- an employer's guide to right to work checks
- an employer's guide to the illegal working civil penalty scheme
- an employer's guide to acceptable right to work documents
- frequently asked questions about the illegal working civil penalty scheme
- code of practice on preventing illegal working: civil penalty scheme for employers
- code of practice for employers: Avoiding unlawful discrimination while preventing illegal working
- an employers 'Right to Work Checklist', and
- an online interactive tool 'Check if someone can work in the UK'.

See related link: Home Office website – guidance for employers.

The employer must inform the job applicant or employee when they are making checks to verify the information the applicant or employee has provided.

To use the ECS the employer must complete all the relevant sections on the request e-form. For the e-form, see related link: Home Office website – Employer checking service e-form.

This guidance is based on the Immigration Acts

Preventing illegal working

Employer requests document check

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page tells you how to handle requests for checks on documents from employers.</p> <p>Working with employers is encouraged but you must make sure a clear and transparent system, that is fully auditable, is maintained. This makes sure there is a consistent and fair approach to all employers.</p> <p>You must not give employers employment advice or advise them to dismiss someone. Home Office staff can only comment on the validity of the documents provided.</p> <p>The onus is on employers to make a physical check of one or more acceptable documents in the presence of the holder to decide if someone has the right to work. Employers are expected to identify 'reasonably apparent' forgeries.</p> <p>The employer checking service (ECS) will only provide advice on the right to work in three specified circumstances. Only advice from the ECS may be relied upon to support a statutory excuse in these cases.</p>	<p>In this section</p> <p>Contact from employers</p> <p>Employer asks for general advice</p> <p>Employer requests check on immigration status of individuals</p> <p>Allegation handling</p> <p>Educational visits</p>
---	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Allegation handling

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page explains how to manage allegations of illegal working received by phone, letter or face-to-face contact.</p> <p>If you receive an allegation, you must immediately pass the information to the appropriate intelligence unit for processing.</p> <p>For more information on managing allegations received and the action taken by the intelligence unit, see related link: 32 Intelligence.</p> <p>An employer who wishes to report any suspicions of illegal working within their own workforce must report it to the sponsorship, employers and education helpline (0300 123 4699) and receive a unique reference number (URN). This URN provides mitigating evidence which means any civil penalty for which the employer may be liable may be reduced in value.</p> <p>The helpline is responsible for referring the information to the relevant intelligence unit who then make contact with the employer.</p>	<p>In this section</p> <p>Contact from employers</p> <p>Employer asks for general advice</p> <p>Employer requests check on immigration status of individuals</p> <p>Employer requests document check</p> <p>Educational visits</p> <p>Links to staff intranet removed</p>
---	--	--

This guidance is based on the Immigration Acts

Preventing illegal working

Educational visits

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page provides information on the purpose of educational visits to employers to help them understand illegal working.</p> <p>Educational visits are for helping employers to gain awareness of the illegal working legislation and to offer guidance on complying with the requirements.</p> <p>Educational visits are for a variety of reasons. For example:</p> <ul style="list-style-type: none">• To provide advice on how to avoid recruiting immigration offenders in the future, following the detection of illegal migrant workers. These can be at the request of an employer, intelligence unit or an officer in charge of an operation.• Following proactive activity by Home Office officers offering the service to local employers, particularly in sectors with a history of illegal working. These can be at the request of an intelligence unit or the officer in charge of an operation.• When requested by local employer organisations. <p>An educational visit must cover the following areas:</p> <ul style="list-style-type: none">• An employer's responsibility to prevent illegal migrant working.• Guidance on how an employer may establish a statutory excuse against liability to pay a civil penalty or face prosecution.• Specified checks pointing employers to the available sources of information on the Home Office website.• Advising employers on the next steps if they are concerned about the immigration status of particular individuals within their workforce. <p>An educational visit must be carried out by at least two enforcement officers who are familiar with the illegal migrant working regulations and can provide an employer with advice on how to comply with the legislation.</p>	<p>In this section</p> <p>Contact from employers</p> <p>Employer asks for general advice</p> <p>Employer requests check on immigration status of individuals</p> <p>Employer requests document check</p> <p>Allegation handling</p> <p>Links to staff intranet removed</p>
---	--	---

This guidance is based on the Immigration Acts

	<p>Officers conducting such a visit must set clear objectives agreed with the employer. A record of the outcome reached and any recommended follow up actions must be kept.</p> <p>Officers who suspect illegal working whilst on an educational visit must document any available evidence and refer it to the relevant intelligence unit for consideration.</p> <p>Officers must not provide employers with an assurance that they will not be subject to a civil penalty or criminal sanction.</p> <p>The civil penalty compliance team (CPCT) can provide further guidance about educational visits, see related link: Email Home Office civil penalty compliance team.</p>	
--	---	--

This guidance is based on the Immigration Acts

Preventing illegal working

Contact

<p>About this guidance</p> <p>Powers of a Home Office officer</p> <p>Croatian nationals</p> <p>Definition of employer</p> <p>Pre-visit actions</p> <p>Actions during an illegal working operation</p> <p>Asylum seekers and failed asylum seekers</p> <p>Post-visit actions</p> <p>Relevant regulations</p> <p>Contact from employers</p>	<p>This page explains who to contact for more help with any illegal working questions.</p> <p>If you have read the relevant legislation, this guidance and the employer guidance published on GOV.UK and still need more help with this category, you should first ask your line manager.</p> <p>If the question cannot be answered at that level, you may email:</p> <ul style="list-style-type: none">the Home Office civil penalty compliance team using the related links. <p>General enquiries about illegal working can be directed to the sponsorship, employers and educational helpline on 0300 123 4699.</p> <p>Changes to this guidance can only be made by the guidance rules and forms team (GRaFT). If you think the policy content needs amending you must contact the sponsorship, employers and educational helpline, who will ask the GRaFT to update the guidance, if appropriate.</p> <p>The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability. You can send these using the link: Email: Guidance, rules and forms team.</p>	<p>In this section</p> <p>Changes to this guidance</p> <p>Information owner</p> <p>Links to staff intranet removed</p>
---	--	---

This guidance is based on the Immigration Acts

Preventing illegal working

Information owner

[About this guidance](#)

[Powers of a Home Office officer](#)

[Croatian nationals](#)

[Definition of employer](#)

[Pre-visit actions](#)

[Actions during an illegal working operation](#)

[Asylum seekers and failed asylum seekers](#)

[Post-visit actions](#)

[Relevant regulations](#)

[Contact from employers](#)

This page details the information owners for the 'Preventing illegal working' guidance.

Version	10.0
Valid from date	31 July 2014
Policy owner	Official – sensitive: information removed
Cleared by director	Official – sensitive: information removed
Director's role	Official – sensitive: information removed
Clearance date	14 December 2012
This version approved for publication by	Official – sensitive: information removed
Approver's role	Official – sensitive: information removed
Approval date	10 May 2014

Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact illegal working operational policy, who will ask the GRaFT to update the guidance, if appropriate.

The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Guidance, rules and forms team.

In this section

[Changes to this guidance](#)

[Contact](#)

Links to staff intranet removed