

Illegal working closure notices and compliance orders

Guidance for frontline professionals

17 January 2017

Produced by the Home Office

© Crown copyright 2016

Contents

	Page no
Glossary	4
1. Introduction	5
2. Summary of the illegal working closure notice and compliance order	7
3. Illegal working closure notice	8
Purpose	8
Applicants	8
The test	9
What must the closure notice contain?	10
Service of closure notices	10
Cancellation of closure notices	10
4. Illegal working compliance order	12
Purpose	12
Applicants	12
What may a compliance order contain?	13
Extension of compliance orders	15
Variation or discharge of the compliance order	15
Notices and orders: appeals	16
Notices and orders: enforcement	16
Notices and orders: offences	16
Access to other premises	17
Reimbursement of costs	17
Exemption from liability	18
Compensation	18

<u>Annex A: Notice of intention to issue an illegal working closure notice</u>	19
<u>Annex B: Illegal working closure notice</u>	20
<u>Annex C: Illegal working closure notice – extension</u>	22
<u>Annex D: Illegal working closure notice – cancellation</u>	23

Glossary

Court means:

- (a) in relation to premises in England and Wales or Northern Ireland, the magistrates' court;
- (b) in relation to premises in Scotland, the sheriff court.

Owner in relation to premises means:

- (a) a person (other than a mortgagee not in possession) entitled to dispose of the fee simple of the premises, whether in possession or in reversion;
- (b) a person who holds or is entitled to the rents and profits of the premises under a lease (when granted) was for a term of not less than 3 years.

Person who has an interest in relation to premises includes:

- (a) the owner;
- (b) any person with control of or responsibility for the premises;
- (c) any person who otherwise occupies the premises.

Premises includes:

- (a) any land, vehicle, vessel or other place (whether enclosed or not);
- (b) any outbuildings that are, or are used as, part of premises.

Premises licence has the meaning given by section 11 of the Licensing Act 2003.

Relevant licensing authority has the meaning given by section 12 of that Act.

Illegal worker¹ is someone who is subject to immigration control, aged over 16; and not allowed to carry out the work in question because:-

- (a) they have not been granted permission to enter or remain in the UK
- (b) their permission to enter or remain in the UK:
 - (i) is invalid;
 - (ii) has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise; or
 - (iii) is subject to a condition preventing him from accepting the employment.

¹ This excludes persons who are have temporary admission and immigration bail who exceptionally have permission to work

1. Introduction

Illegal working

Illegal working is undertaken by individuals who are subject to UK immigration control² and who have either entered the UK illegally, overstayed their permission to be here, or have permission to be in the UK but are subject to a condition preventing them from working.

The ability to work illegally is one of the main reasons for illegal migration to the UK. It encourages people to break the UK's immigration laws and provides a practical means for them to remain unlawfully. It encourages migrants to take extreme risks to get here and makes them vulnerable to exploitative employers and people traffickers. Illegal working results in the undercutting of legitimate businesses, negatively impacts on the wages of lawful workers and is linked to other labour market abuse such as tax evasion, breach of the national minimum wage and exploitative working conditions.

The Government's response

The Government has used the Immigration Act 2016 to strengthen its response to rogue employers of illegal migrants. The creation of the illegal working closure notice and compliance order provisions is intended to provide a power to deal with those employers who have continued to flout the UK's laws by using illegal labour where previous civil and/or criminal sanctions have not curbed their non-compliant behaviour.

In addition to this power, the 2016 Act has made it easier to prosecute an employer who knew or had reasonable cause to believe that their employee had no right to work, and increased the maximum custodial sentence from two to five years. The Act also ensures that obtaining and continuing to hold licences in the alcohol and late night refreshment and taxi and private hire vehicle sectors are conditional on complying with the UK's immigration laws. The Act has also made illegal working a criminal offence enabling an illegal worker's earnings to be seized as the proceeds of crime.

The Home Office's Immigration Enforcement is the frontline enforcement agency to prevent illegal working and immigration abuse. However, the Home Office works closely with other government departments and agencies to identify where illegal working is happening, to take enforcement action against illegal working and other workplace compliance breaches, and to apply the fullest range of sanctions against non-compliant employers.

² A person is subject to immigration control if, under the Immigration Act 1971, the person requires leave permission) to enter or remain in the UK.

Illegal working closure notices and compliance orders

This guidance is issued under paragraph 16 of Schedule 6 to the Immigration Act 2016.

It is written primarily for immigration officers who will use the new powers to issue illegal working closure notices and apply for compliance orders.

Before issuing and revising this guidance, it has been subject to consultation with persons whom the Secretary of State considers represent the views of immigration officers and chief officers of police and such other persons the Secretary of State considers appropriate.

2. Summary of the illegal working closure notice and compliance order

Purpose	To allow Home Office Immigration Enforcement to quickly close a business premises where illegal working is being conducted, and there is a history of illegal working. To place an employer under a compliance regime, as directed by the court, to prevent an employer operating at the premises from employing illegal workers.
Test	Employment of illegal workers and previous non-compliance with sections 15 and 21 of the Immigration, Asylum and Nationality Act 2006.
Details	<p>A closure notice shuts premises for a period of up to 24 hours if issued by a chief immigration officer, or up to 48 hours if issued by an officer of at least the rank of an immigration inspector. A closure notice issued for up to 24 hours may be extended up to 48 hours by an officer of at least the rank of an immigration inspector. Unless the notice has been cancelled, an application must be made to the court for an illegal working compliance order, and be heard within 48 hours of the notice being served. A closure notice may be cancelled where the immigration officer considers that the conditions for issuing it have not been met; or the employer shows in relation to each illegal worker that they have a statutory excuse.</p> <p>A compliance order can be issued by the court for a period of up to 12 months, and extended to 24 months in total. It may restrict or prohibit access to the premises, require right to work checks on employees to be undertaken and for inspections and investigations to be carried out by an immigration officer and make any other provision the court considers appropriate. The court may also vary or discharge the compliance order.</p>
Penalty on breach	It is an offence, without reasonable excuse, to access the premises in breach of a closure notice or obstruct an immigration officer or constable issuing an order or securing premises; or to contravene a compliance order. The maximum penalty is 6 months' imprisonment and/or a fine in England and Wales, and Northern Ireland, and 12 months and/or a fine in Scotland.
Who can appeal	<p>An employer or someone with an interest in the premises may attend the court when an immigration officer applies for a compliance order, to show why one should not be made.</p> <p>There is a right of appeal to the Crown Court or Sheriff Appeal Court against decisions in relation to the compliance order which may be exercised by an immigration officer or any person on whom the closure notice was served. This right of appeal must be exercised within 21 days from the date of the decision to which it relates.</p>
Reimbursement and compensation	<p>The Secretary of State may make an application for reimbursement of costs in relation to clearing, securing or maintaining premises subject to a compliance order within 3 months from the notice ceasing to have effect.</p> <p>A person who has incurred financial loss as a result of a closure notice, may apply for compensation within 3 months from the notice ceasing to have effect. This does not apply where the closure notice was cancelled on grounds that the employer subsequently demonstrated they would have a statutory excuse in relation to each illegal worker for whom a civil penalty may be issued.</p>

3. Illegal working closure notice

Purpose

The closure notice is a fast power which may be used to close premises where an employer (or a person connected with the employer) operating at the premises is found to be employing illegal workers and has been previously non-compliant with illegal working legislation. The intention is to use a closure notice in the most serious cases, where previous civil penalties and/or convictions have failed to change employer behaviour and, usually, where a significant proportion of workers on the premises at the time of the visit are illegal.

The notice prohibits access to the premises and paid or voluntary work on the premises, unless it is authorised in writing by an immigration officer. The closure notice does not prevent access to the premises by any person who habitually lives there.

In addition to the issue of the notice, consideration will also be given to the service of penalties or prosecution for illegal working and other immigration offences.

Applicants

The notice to close premises is the first part of a two stage process³, and unless the closure notice is cancelled, it must be followed by an application to the court for a compliance order.

A Chief Immigration Officer or more senior officer may issue a notice closing premises for **24 hours**. This may be extended to 48 hours by an Inspector or more senior officer. An Immigration Inspector or senior officer may issue a notice closing premises for **48 hours**⁴.

An immigration officer or a constable, may use reasonable force to enter the premises to fix the notice or secure the premises against entry, and may be accompanied by another person who they are supervising to carry out maintenance or repairs.

Under a compliance order, an immigration officer may be permitted to enter the premises without notice or warrant to check that the illegal working legislation is being complied with.

³ The exception is where a notice of intention to issue an illegal working closure notice, followed by a closure notice, is served in those circumstances specified on page 9.

⁴ Where the issuing officer is not at the premises, the name and rank of the issuing officer shall be recorded in the immigration officer's pocket book. The issuing officer shall additionally sign and date the closure notice and serve this on file; and this notice shall be taken to the compliance order hearing as evidence that the notice was issued and served correctly.

The test

A closure notice can be issued for 24 or 48 hours if the officer who issues the notice is satisfied on reasonable grounds that:

- (a) Illegal working is taking place on the premises and
- (b) The employer or connected person in relation to the employer:
 - has been convicted of an offence under section 21 of the Immigration, Asylum and Nationality Act 2006; or
 - has, during the period of three years ending with the date on which the closure notice issued, been required to pay a penalty under section 15 of the 2006 Act; or
 - has, at any time, been required to pay such a penalty and failed to pay it.

A closure notice may not be issued if the employer shows in relation to the employment⁵ of each illegal worker, that they have a statutory excuse⁶.

The test above establishes the lowest threshold for issuing a closure notice. In practice, a closure notice would generally be served in the most serious cases, where a high proportion of the workforce encountered is working illegally and where it is considered that this course of action is required to prevent continuing illegal working. As a matter of policy, it would also be used as a tool to provide an appropriate response where such behaviour has been combined with 'phoenixism'. This is where a business has closed to evade sanctions, re-opened in a new identity and continued with the non compliant activity.

A closure notice may be issued only if reasonable efforts have been made to inform

- (a) people who live on the premises (habitually or not), and
- (b) any person who has an interest in the premises

that the notice is going to be issued.

Before issuing a closure notice the immigration officer must ensure that any person the officer thinks appropriate has been consulted.

Where a closure notice is to be served, this will usually be undertaken at the time of the visit to the premises during which illegal working is identified. However, where the operation takes place on a Friday, and it will not be possible to apply to the court for a compliance order within the statutory maximum of 48 hours, service of the closure notice should be served on the Monday. In such circumstances, a notice of intention to issue an illegal working closure notice will be served in the first instance. The format of this notice is set out at Annex A. This will enable the compliance order application to be submitted to the court on a normal 'sitting' day. The same arrangements apply in

⁵ Employment is employment under a contract of service or apprenticeship, whether express or implied, and whether oral or written.

⁶ A statutory excuse is obtained when an employer can demonstrate that they undertook the prescribed right to work checks as described in the published codes of practice and guidance and are not therefore liable for a civil penalty under section 15 of the 2006 Act.

the event of a public holiday. No more than 3 calendar days should elapse between an illegal working operation and the service of a closure notice related to the operation.

What must the closure notice contain?

The closure notice must:

- (a) identify the premises,
- (b) explain the effect of the notice,
- (c) explain that failure to comply with the notice is an offence,
- (d) state that an application will be made for an illegal working compliance order,
- (e) specify when and where the application will be heard⁷, and
- (f) explain the effect of an illegal working compliance order.

The format of a closure notice is set out at Annex B.

Service of notices

An immigration officer must if possible:

- (a) fix a copy of the notice in at least one prominent place on the premises,
- (b) fix a copy to each normal means of access to the premises,
- (c) fix a copy to any outbuildings that appear to the immigration officer to be used with or as part of the premises,
- (d) give a copy of the notice to at least one person who appears to the immigration officer to have control of or responsibility for the premises, and
- (e) give a copy of the notice to the people who live on the premises and to any person who does not live there but was informed that the notice was going to be issued.

In the case of (a) to (c), it is advisable to photograph the notice in situ, though this is not a legal requirement⁸.

If the immigration officer reasonably believes when serving the notice, that there are people occupying another part of the building or structure in which the premises are situated whose access to that part will be impeded by the compliance order, the immigration officer must also if possible serve the notice on these individuals.

Cancellation of closure notices

An immigration officer may issue a cancellation notice which cancels a closure notice only if:

- (a) the immigration officer considers that the conditions for issuing the closure notice have not been met; or

⁷ The closure notice must specify the date of the compliance order hearing, even if the time on that date has not been confirmed by the court

⁸ Where a photograph of a closure notice is taken, the content should be legible

- (b) the employer shows in relation to each illegal worker that they have a statutory excuse.

A cancellation notice may be issued by an immigration officer of at least the rank of the immigration officer who issued the closure notice, or where the closure notice has been extended, by an immigration officer of at least the rank of the officer who issued the extension. This will usually be a Chief Immigration Officer or HM Inspector.

The extension notice is at Annex C. A cancellation notice is at Annex D.

4. Illegal working compliance order

Purpose

The aim of a compliance order is to prevent an employer operating at the premises from employing illegal workers. The employer is placed under special conditions to support compliance, as directed by the court, and may be inspected by immigration officers.

Applicants

Whenever an illegal working closure notice has been issued, and which has not been cancelled, an immigration officer must make an application by complaint to the court for a compliance order. The application must be sent to the court and served on the respondent before the hearing. It will form the basis of the immigration officer's oral application to the court for the compliance order.

The respondent, where known⁹, must be informed of the hearing (if they were not at the premises when the closure notice was served) and that they may attend to make representations as to why the order should not be made.

The respondent will normally be the employer, that is, the legal entity that operates the business and may be a corporation rather than a living person. There may be cases in which more than one employer is identified at the premises, in which case, additional respondents may be added to the application to the court. Where the identity of the employer is unknown, the respondent will be identified as follows in the application: 'Employer(s) unknown operating at [address of premises]'. A second respondent may be any person who the immigration officer requests the court stipulates in the order to undertake right to work checks, such as a named manager or supervisor.

The court must hear the application no later than **48 hours** after service of the closure notice. This excludes Christmas Day.

The court may adjourn the hearing of the application for a period of not more than **14 days** to enable a person who has an interest in the premises to show why a compliance order should not be made. The immigration officer may also consider inviting the court to adjourn the hearing if there are circumstances that require further investigation, such as the identification of the employer. If the court makes an adjournment, it may order that the closure notice continues in force until the end of the period of adjournment by making a separate order.

The court may make a compliance order if it is satisfied that the conditions for issuing the closure notice were met and it is necessary in order to prevent the employer operating at the premises from employing an illegal worker.

⁹ The identity of the employer may not always be known

A fee will be charged for the initial civil application, and any separate applications to extend or vary the compliance order and for reimbursement of costs.¹⁰

What may a compliance order contain?

The compliance order may:

- (a) prohibit or restrict access to the premises,
- (b) require a person specified in the order to carry out, at such times as may be specified, such right to work checks as prescribed in separate regulations¹¹,
- (c) require a person specified in the order to produce to an immigration officer, at such times and such places as may be specified by the court, right to work documents as prescribed in separate regulations,
- (d) specify the times at which and the circumstances in which an immigration officer may enter the premises to carry out investigations or inspections specified in the order, and
- (e) make such other provision as the court considers appropriate.

An immigration officer will complete a draft compliance order and provide this to the court and the respondent before the court hearing. The draft order will set out the provisions that the officer is seeking, and should be consistent with the application to the court.

An immigration officer will routinely request that the compliance order contains provisions (b) to (d) above. They will usually only request that the court orders the continued prohibited or restricted access to the premises (a) where it is considered that to continue business activity from that location would probably involve the use of illegal workers and where other measures, such as imposing right to work checks, are unlikely to prevent this.

It is therefore expected that an immigration officer will normally request that the court orders the employer to undertake right to work checks on all employees employed on or out of these premises, and for follow-up compliance inspections by an immigration officer to take place. These inspection visits will not require a separate warrant. The immigration officer will request to be given access to the premises during the usual operating hours, or any other time they have reasonable grounds for believing that work is being carried out at the premises, and specify the frequency of visits for the duration of the order.

If illegal workers are discovered on the premises, or working from the premises, during such an inspection, immigration officers will be able to take enforcement action under their existing powers and may decide to apply to vary the terms of the compliance order if they consider the order is not meeting its objective of preventing illegal working.

¹⁰ The fee for England and Wales is fee 8.1 in Schedule 1 to the Magistrates' Courts Fees Order 2008

¹¹ The Illegal Working Compliance Order Regulations 2016, available at: <http://www.legislation.gov.uk/uksi/2016/1058/contents/made>

The court may also make other provision it considers appropriate, as noted in (e). This may include a range of issues, but examples might be to order that:

- any employee must promptly co-operate with the request for documents as part of any right to work checks imposed on the employer;
- document copies retained as a result of right to work checks be held on the premises for the duration of the order for ease of inspection;
- an immigration officer conducting an inspection may require any person he or she reasonably suspects to be working at the premises to co-operate with a biometric scan of their finger prints¹²;
- where the court orders the continued closure of the premises, that the closure notice is replaced by a notice detailing the terms of the illegal working closure order concerning the closure;
- that the employer must inform immigration officers if they intend to move the operation of the business to another premises;
- if an immigration officer considers it necessary, they may be accompanied by a constable for the purpose of an inspection visit; and
- the court may also consider extending checks and inspections to other premises within the ownership of the same employer where there is evidence that these are required to prevent illegal working.

The maximum period for a compliance order is **12 months**. The court may stipulate that different provisions will last for different periods of time within this total duration.

Any provision in the order which prohibits or restricts access may be in relation to all persons, all persons except those specified, or all persons except those of a specified description. It may have effect at all times or at all times except those specified and may have effect in all circumstances, or except those specified.

The compliance order may be made in respect of the whole or part of the premises and include provision about access to a part of the building or structure of which the premises forms a part.

An immigration officer should inform the court where the premises in England and Wales are licenced (under the Licensing Act 2003), and provide information necessary for the court to notify the relevant licensing authority if it makes an illegal working compliance order.

In the event that the respondent does not attend the hearing, the immigration officer will provide the final order for the attention of the employer at the business premises, together with contact details for Immigration Enforcement in the event of there being

¹² The biometric scan of fingerprints is carried out by means of a handheld device called 'Rap-ID' and in order to verify identity and immigration status of the workers. No biometric information is retained from the scan.

questions about the order, and record that this action has been taken. Subject to the terms of the compliance order, it will be usual to replace the closure notice with the order where the order restricts access to the premises.

Extension of compliance orders

An immigration officer can apply to the court to extend, or further extend, the compliance order. The application cannot extend the compliance order for more than 6 months, or so that the compliance order is in force for a total period that exceeds **24 months**.

The court may only grant an application if it is satisfied, on the balance of probabilities, that it is necessary to grant it in order to prevent an employer operating at the premises from employing an illegal worker.

The court may issue a summons directed to any person on whom the illegal working closure notice was served or any other person who appears to the court to have an interest in the premises, requiring that person to appear before the court to respond to the application.

If a summons is issued, a notice stating the date, time and place of the hearing of the application must be served on the persons to whom the summons is directed.

Variation or discharge of the compliance order

An application may be made to the court for the compliance order to be varied (changed) or discharged (ended). This application may be made by an immigration officer or a person on whom the closure notice was served or any person who has an interest in the premises.

The court may issue a summons directed to any of these parties, requiring them to appear before the court to respond to the application.

If a summons is issued, a notice stating the date, time and place of the hearing of the application must be served on the persons to whom the summons is directed.

The court may not discharge a compliance order unless it is satisfied, on the balance of probabilities, that it is no longer necessary to prevent an employer operating at the premises from employing an illegal worker.

If the business changes ownership it will be necessary to review the compliance order. The order will not be affected where the legal entity remains the same. Depending on the terms of the order, a new employer will probably wish to apply to the court to vary or discharge the order. Immigration officers may ask for the court to impose a requirement on the employer to inform them that they are operating from another premises.

Notices and orders: appeals

An appeal may be made by a person on whom the closure notice was served, or any other person who has an interest in the premises, against a decision:

- to make, extend, or vary an illegal working compliance order;
- not to discharge an illegal working compliance order;
- to order that an illegal working closure notice continues in force.

An appeal may be made by an immigration officer against a decision:

- not to make a compliance order;
- not to extend an provisions of an illegal working compliance order, or not to vary such an order, made on the application of an immigration officers;
- to vary or discharge an illegal working compliance order;
- not to order that an illegal working closure notice continues in force.

Appeals in relation to premises in England, Wales and Northern Ireland are to the Crown Court. In Scotland, the appeal is to the Sheriff Appeal Court.

The appeal must be made within **21 days**, beginning with the date of the decision to which it relates.

On an appeal, the court may make whatever order it thinks appropriate.

An immigration officer should inform the court where the premises in England and Wales are licensed (under the Licensing Act 2003), and provide information necessary for the court to notify the relevant licensing authority if it makes an illegal working compliance order.

Notices and orders: enforcement

If access to premises is prohibited or restricted by an illegal working closure notice or compliance order, an immigration officer or police constable may enter the premises (by reasonable force if necessary) and do anything necessary to secure the premises against entry.

They may, together with any person acting under their supervision, also enter the premises to carry out essential maintenance or repairs.

Notice and orders: offences

A person who, without reasonable excuse, remains on or enters premises in contravention of an illegal working closure notice commits an offence.

A person who, without reasonable excuse, contravenes a compliance order commits an offence.

A person who, without reasonable excuse, obstructs a person who is serving or enforcing a closure notice commits an offence.

Arrest for the offence of breaching a notice or order will generally be by a constable. In the case of a breach of the compliance order, where the inspection is undertaken by a Criminal Financial Investigation's officer, in England and Wales, they may effect the arrest using the Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013.

A person who is guilty of this offence is liable on summary conviction –

- In England and Wales, to imprisonment for a term not exceeding 6 months, to a fine or both;
- In Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both;
- In Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both.

Access to other premises

Where:

- access to premises is prohibited or restricted by a provision of a compliance order;
- those premises are part of a building or structure; and
- there is another part of that building or structure that is not subject to the prohibition or restriction

An occupier or owner of that other part may apply to the court for an order.

Notice of such an application must be given to:

- Whatever immigration officer the court thinks appropriate
- Each person on whom the closure notice was served
- Any other person who has an interest in the premises.

The court may make whatever order it thinks appropriate in relation to access to any part of the building or structure. It does not matter whether the compliance order has already made provision for access to other premises.

Reimbursement of costs

Where the Secretary of State incurs expenditure for the purpose of clearing, securing or maintaining premises in respect of which an illegal working compliance order is in force, the Secretary of State may apply to the court for an order for costs.

The court may make whatever order it thinks appropriate for the reimbursement – in full or in part – by the owner or occupier of the premises of the expenditure.

This application for an order may not be heard unless it is made before the end of the period of **3 months** starting when the compliance order ceased to have effect. The application may be made at the illegal working compliance order hearing, and if the court grants the order. More usually, a separate application will be made for costs for securing or maintaining the premises at a later date and within 3 months of the date of expiry of the order. The immigration officer must ensure that the respondent is served with a copy of the application to the court for costs, including the receipts or invoices detailing these costs.

In respect of recovery of litigation costs (court fees), the immigration officer will usually seek their reimbursement at the end of each full hearing.¹³

An order may only be made against a person who has been served with the application for this order.

Exemption from liability

The following individuals are not liable for damages in proceedings for judicial review, for negligence or misfeasance in public office, arising out of anything done or not done by them in the exercise, or purported exercise, of a power in Schedule 6 of the 2016 Act:

- the Secretary of State,
- an immigration officer,
- a police officer,
- the chief police officer under whose direction or control a police officer acts.

This exemption does not apply where it can be shown that an act or omission was carried out in bad faith. Nor does it apply so as to prevent an award of damages made in respect of an act or omission which is unlawful under section 6(1) of the Human Rights Act 1998.¹⁴

This does not affect any other exemption from liability (whether at common law or otherwise).

Compensation

A person who claims to have incurred financial loss as a result of a closure notice, except one which has been cancelled on grounds that the employer subsequently demonstrated they would have a statutory excuse in relation to each illegal worker for whom a civil penalty may be issued, may apply to the court for compensation.

This application may not be heard if it is made more than 3 months after the closure notice ceased to have effect, beginning on the date on which the notice ended.

The court may order the payment of compensation only if **all the following apply**:

- (a) at the time the closure notice was applied, the test was not met (i.e. the employer was not employing illegal workers or had not previously failed to comply with illegal working legislation);
- (b) the applicant has incurred financial loss as a result of the notice; and
- (c) having regard to all the circumstances, the court considers it appropriate to order the payment of compensation in respect of that loss.

¹³ If a hearing is adjourned, reimbursement of litigation costs will be sought at the end of the next full hearing

¹⁴ http://www.legislation.gov.uk/ukpga/1998/42/pdfs/ukpga_19980042_en.pdf. Section 6(1): it is unlawful for a public authority to act in a way which is incompatible with a Convention right.

[Home Office Immigration Enforcement headed paper]

[reference no]

NOTICE OF INTENTION TO ISSUE AN ILLEGAL WORKING CLOSURE NOTICE

Notice is hereby given that Immigration Enforcement intends to issue an illegal working closure notice under paragraph 1 of Schedule 6 to the Immigration Act 2016.

It will be served on the following premises:

[Insert address or other description enabling the premises to be clearly delimited and identified]
.....

On: *[Date]*.....

If the closure notice is issued, it will prohibit paid or voluntary work at the premises for a maximum initial period of 48 hours, but a court may order the period of closure to continue. The closure notice will describe its effect in more detail and explain what will happen next.

For further information, contact *[insert contact details]*
.....
.....
.....

Name of officer:.....

Rank *[Chief Immigration Officer/HM Inspector]*:.....

Date:.....Time:.....

[Home Office Immigration Enforcement headed paper]

[reference no]

ILLEGAL WORKING CLOSURE NOTICE

FAILURE TO COMPLY WITH THIS NOTICE IS A CRIMINAL OFFENCE

This notice is issued under paragraph 1 of Schedule 6 to the Immigration Act 2016.

Access to the following premises is prohibited unless you are authorised in writing by an immigration officer or habitually live at the premises:

[Insert address or other description enabling the premises to be clearly delimited and identified]

Both paid and voluntary work of any kind at the above premises is prohibited.

A request for permission to access the premises may be made by contacting *[contact details]* quoting the reference number at the top of this notice.

An application will be made to *[name of court]* Magistrates' Court/Sheriff Court *[delete as appropriate]* under paragraph 5 of Schedule 6 to the Immigration Act 2016 for an Illegal Working Compliance Order.

The application will be heard on *[date]*

At *[name and address of the court]*.....
.....

An illegal working compliance order may:

- prohibit or restrict access to the premises;
- require a person specified in the order to carry out, at such times as may be so specified, such checks relating to the right to work as may be prescribed by the Secretary of State in regulations;
- require a person specified in the order to produce to an immigration officer, at such times and such places as may be so specified, such documents relating to the right to work as may be prescribed by the Secretary of State in regulations;
- specify the times at which and the circumstances in which an immigration officer may enter the premises to carry out such investigations or inspections as may be specified in the order;
- make such other provision as the court considers appropriate.

Name of officer:.....

Rank [*Chief Immigration Officer/HM Inspector*]:.....

Date:.....Time:.....

Expiry: This notice shall cease to have effect immediately before [*insert time 24 or 48 hours from time of issue excluding Christmas Day*] on [*insert date*] unless an extension notice is issued or the court orders that it is to continue in force.

[Home Office Immigration Enforcement headed paper]

[reference no]

ILLEGAL WORKING CLOSURE NOTICE

EXTENSION

This notice is issued under paragraph 2(5) of Schedule 6 to the Immigration Act 2016.

The following premises were closed by an Illegal Working Closure Notice on *[insert date]* Reference No. *[insert notice reference no]*:

[Insert address or other description enabling the premises to be clearly delimited and identified]

The aforementioned closure notice is extended by *[insert period up to a maximum of 24 hours]* with immediate effect.

For further information, contact *[insert contact details]*

.....
.....
.....

Name of officer:.....

Rank [*HM Inspector or above*]:.....

Date:.....Time:.....

Expiry: The aforementioned Illegal Working Closure Notice shall now cease to have effect immediately before *[insert time up to 24 hours from time of issue to correspond with the period of extension referred to above]* on *[insert date]* unless the court orders that it is to continue in force.

[Home Office Immigration Enforcement headed paper]

[reference no]

ILLEGAL WORKING CLOSURE NOTICE

CANCELLATION

This notice is issued under paragraph 3 of Schedule 6 to the Immigration Act 2016.

The following premises were closed by an Illegal Working Closure Notice on [*insert date*] Reference No. [*insert notice reference no*].

[*Address or other description enabling the premises to be clearly delimited and identified*]

The aforementioned closure notice is cancelled with immediate effect.

For further information, contact [*insert contact details*].....
.....

Name of officer:.....

Rank [*the same or higher rank as the officer who issued the notice*]:.....

Date:.....Time:.....