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United Kingdom – Immigration Law Gets Tough on Illegals, Their Landlords and Employers

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Last week the new U.K. Immigration Act 2016 ("The Act")¹ received Royal Assent and the measures in the Act will come into force over the coming months.

The Act² introduces a series of reforms designed to further reduce illegal migration and makes it harder for those who have no right to be in the U.K. to live and work here. The new measures make it an offence to employ illegal migrants. The Act appears aimed at making sure only people (legally) living in the U.K. have access to services such as U.K. bank accounts and rental accommodation.³ It also strengthens the Home Office's powers to remove illegal migrants.

Why This Matters

Businesses intending to employ non-European Economic Area (EEA) nationals to work in the U.K. will face greater challenges as tougher penalties and sanctions on illegal workers are introduced. Employers will need to properly fulfill their duties and make sure that all new employees are entitled to work in the United Kingdom.

The Act makes illegal working a criminal offence in its own right. If found guilty of the offence, a custodial sentence of up to 51 weeks and/or a fine in England and Wales, and a custodial sentence of up to six months and/or a fine in Northern Ireland and Scotland can be imposed. The Act also conveys power on the U.K. authorities to close a business for up to 48 hours with further closures as directed by the courts if the employer cannot show it has carried out adequate right-to-work checks.

New Powers Included in the Act

The Act includes a range of new powers:

- **Illegal Working** – New sanctions on illegal workers are being introduced, including the new offence of illegal working. Furthermore, the Act will impose a new immigration skills charge on businesses bringing non-EEA migrant labour into the United Kingdom. The charge is currently expected to be £1,000 per year of the visa per main applicant.

KPMG Note: Employers will need to factor in the costs of the new Immigration Skills Charge when sending people to the United Kingdom.

- **Access to Services** – Illegal migrants in the U.K. will be blocked from access to housing, driving licenses, and bank accounts. The Act also includes powers to prosecute landlords⁴ and agents who repeatedly fail to carry out right-to-rent checks, or fail to take steps to remove illegal migrants from their property.
- **Enforcement** – Immigration enforcement officers have new powers to search individuals and properties and seize identity documents if they suspect someone to be in the U.K. illegally. The Act also includes electronic tagging for foreign national offenders on immigration bail. The government hopes that these changes will make it easier to enforce immigration laws and remove illegal migrants.

- **Tier Asylum** – The Home Office will have discretion to restrict the support given to failed asylum seekers to those who are destitute and face a genuine obstacle to leaving the United Kingdom. The Act also aims to resettle unaccompanied children impacted by the ongoing migration crisis.
- **English Language** – The Act stipulates that there is no language barrier to British citizens accessing public services, which means that public sector workers who have customer-facing roles must speak fluent English.

KPMG Note

As a result of the changes in relation to illegal working, employers must conduct checks on all migrant workers to verify their right to work in the U.K., both as an initial step prior to employment, as well as follow-up checks for all workers with limited leave to remain in the United Kingdom. Employers will need to make sure these checks are carried out correctly in order to rely on them as a defence to possible prosecution. The Act makes it:

- easier to prosecute employers that deliberately ‘turn a blind eye’ to employing illegal workers and sanctions tougher, and
- tougher for people to live and work illegally in the United Kingdom.

Footnotes:

- 1 The Immigration Bill has completed its passage through Parliament to become law, see: <https://www.gov.uk/government/news/immigration-bill-receives-royal-assent> .
- 2 Immigration Act 2016, see: <https://www.gov.uk/government/collections/immigration-bill-2015-16> .
- 3 See our related report in GMS [Flash Alert 2015-076](#) (16 June 2015).
- 4 For our related report, see GMS [Flash Alert 2015-129](#) (29 October 2015).

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** Please note the KPMG International member firm in the United States does not provide immigration services.*

KPMG's 2016 Global Assignment Policies and Practices (GAPP) Survey is now open and you are invited to participate. The updated 2016 GAPP survey features enhanced user functionality and reporting capabilities and refreshed survey categories reflecting current policy focus and practices that KPMG sees in the marketplace and new content requested by previous years' participants. Participation in the survey will allow you to benchmark your organization in relation to other survey participants on numerous aspects of an international assignment program, including: assignee selection and assessment, assignment preparation and planning, talent and performance management, assignment compensation and allowances, administration and outsourcing, as well as tax reimbursement approaches.

Please [click here](#) to access the 2016 GAPP Survey Web site page on www.kpmg.com.

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