



GLA Brief

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Labour Market Enforcement Undertakings and Orders

This brief provides an introduction to new sanctions – Labour Market Enforcement Undertakings (LMEUs) and Labour Market Enforcement Orders (LMEOs) – to support labour market compliance, which were introduced in the Immigration Act 2016, and come into force from 25 November 2016.

Introduction

The Immigration Act 2016 introduced LMEUs and LMEOs for use by the Gangmasters Licensing Authority, National Minimum Wage teams, and the Employment Agency Standards Inspectorate (the enforcing authorities). LMEUs/LMEOs can be used as an alternative or additional sanction for breaches of certain labour market legislation where a “trigger offence” is identified. A trigger offence is:

- An offence under the Gangmasters (Licensing) Act 2004 (the Act)
- An offence under the National Minimum Wage Act 1998
- An offence under the Employment Agencies Act 1973 (except section 9(4)(b))

What is a LMEU?

A LMEU is a sanction that can be used as an alternative, or in addition to, other sanctions where breaches of the above Acts, which underpin compliance in the labour market, are identified. A LMEU is an agreement by the non-compliant person, or business, with one of the enforcing authorities on what that person or business will do to restore and maintain compliance with the requirements of one or more the above Acts. The agreement will set out what needs to be done, by a specific date, and how. It can be removed if compliance is achieved. Alternatively, it can remain in force for a period of 2 years, even if the specific conditions have been met, if there is considered to be a continuing risk.

What is a LMEO?

Where a person or business does not agree to a LMEU within 14 days then the enforcing authority can apply to a court for a Labour Market Enforcement Order (LMEO) to require the person or business to comply. If the person or business is convicted for a trigger

offence the court may decide to make an LMEO when sentencing. If a LMEU is in place but it is identified that the LMEU has not been complied with the enforcing authority can apply to the court for a LMEO. It can be removed by the court (on application by the person or business) if compliance is achieved. Alternatively, it can remain in force for a period of 2 years even if the specific conditions have been met, if there is considered to be a continuing risk.

What happens if the LMEO is not complied with?

If a LMEO is not complied with the person or business can be investigated and prosecuted for the offence of failing to comply with a LMEO (section 27 of the Immigration Act 2016).

Use of combined LMEU/LMEOs by the GLA

The GLA can seek LMEUs where an offence within the Act is identified. NMW teams and EAS can similarly seek LMEUs where offences from their respective Acts are identified. If a combination of trigger offences in relation to more than one area is identified, a combination LMEU can be considered. Only the GLA can seek a combination LMEU covering all breaches.

Where the GLA identifies that the combined LMEU has not been complied with, or receives information from NMW or EAS that non-compliance continues, the GLA can apply for a combined LMEO. Only the GLA can seek a combination LMEO. If the combined LMEO is not complied with only the GLA can undertake the criminal investigation into the breach of the order, and, by referral to the Crown Prosecution Service, seek prosecution for the breach.

Where can I find more information?

The use of LMEUs/LMEOs is subject to a statutory Code of Practice, which can be found here: <https://www.gov.uk/government/publications/labour-market-enforcement-undertakings-and-orders-draft-code-of-practice> . Please note this is the link to draft Code, which will be replaced on Gov.uk with a link to the final version shortly. There are no changes in the final version.

Further information

1. If you any questions about this Brief, please contact the GLA helpline on 0345 602 5020 or email licensing@gla.gsi.gov.uk.
2. For the latest news and updates from the GLA:



Twitter: [@UK_Gla](https://twitter.com/UK_Gla)



facebook: www.facebook.com/GangmastersLicensingAuthority

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