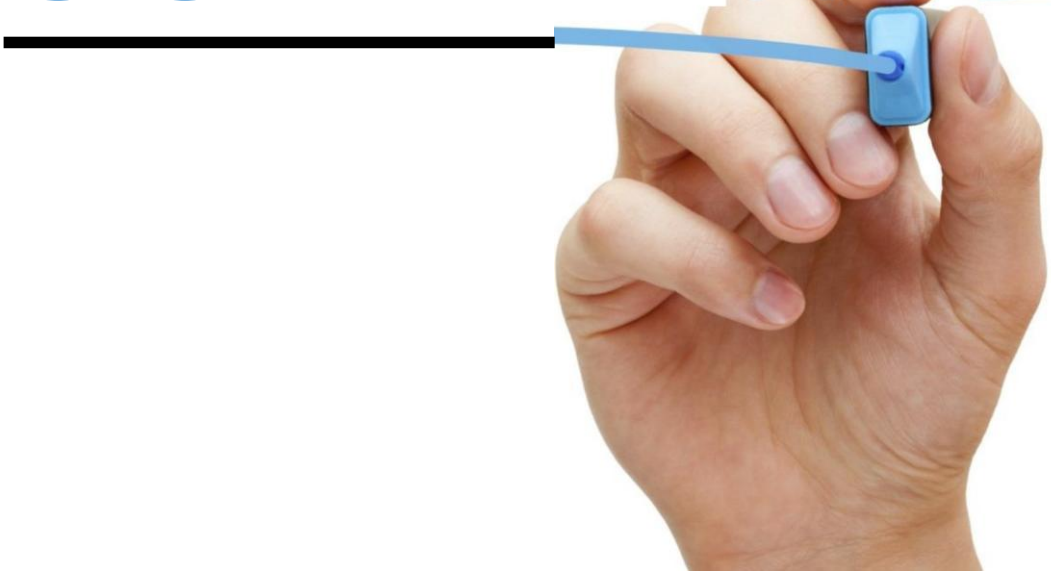


COMPLIANCE



# IMMIGRATION COMPLIANCE

## DUTIES AND OBLIGATIONS OF EMPLOYERS

### 38. Employment

(1) No person shall employ—

- (a) an illegal foreigner;
- (b) a foreigner whose status does not authorise him or her to be employed by such person; or
- (c) a foreigner on terms, conditions or in a capacity different from those contemplated in such foreigner's status.

# IMMIGRATION COMPLIANCE

- (2) An employer shall make a good faith effort to ascertain that no illegal foreigner is employed by him or her or to ascertain the status or citizenship of those whom he or she employs.
  
- (3) If it is proven, other than by means of the presumption referred to in subsection (5), that a person was employed in violation of subsection (1), it shall be presumed that the employer knew at the time of the employment that such person was among those referred to in subsection (1), unless such employer proves that he or she —



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# IMMIGRATION COMPLIANCE

- (a) employed such person in good faith; and
- (b) complied with subsection (2), provided that a stricter compliance shall be required of any employer who employs more than five employees or has been found guilty of a prior offence under this Act related to this section

(5) If an illegal foreigner is found on any premises where a business is conducted, it shall be presumed that such foreigner was employed by the person who has control over such premises, unless prima facie evidence to the contrary is adduced



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# SECTION 42: AIDING & ABETTING ILLEGAL FOREIGNERS

42. (1) Subject to this Act, and save for necessary humanitarian assistance, no person, shall aid, abet, assist, enable or in any manner help —
- (a) an illegal foreigner; or
  - (b) a foreigner in respect of any matter, conduct or transaction which violates such foreigner's status, when applicable, including but not limited to —



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# SECTION 42: AIDING & ABETTING ILLEGAL FOREIGNERS

- (i) providing instruction or training to him or her, or allowing him or her to receive instruction or training;
- (ii) issuing to him or her a licence or other authorisation to conduct any business or to carry on any profession or occupation;
- (iii) entering into an agreement with him or her for the conduct of any business or the carrying on of any profession or occupation;
- (iv) conducting any business or carrying on any profession or occupation in cooperation with him or her;

# SECTION 42: AIDING & ABETTING ILLEGAL FOREIGNERS

- (v) assisting, enabling or in any manner helping him or her to conduct any business or carry on any profession or occupation;
- (vi) obtaining a licence or other authority for him or her or on his or her behalf to conduct any business or to carry on any profession or occupation;
- (vii) doing anything for him or her or on his or her behalf in connection with his or her business or profession or occupation;
- (viii) harbouring him or her, which includes providing accommodation; or

# SECTION 42: AIDING & ABETTING ILLEGAL FOREIGNERS

(ix) letting or selling or in any manner making available any immovable property in the Republic to him or her.



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# SECTION 42(2): CRIMINAL PROCEEDINGS



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## SECTION 42(2): CRIMINAL PROCEEDINGS

- (2) In any criminal proceedings arising out of this section, it is no defence to aver that the status of the foreigner concerned, or whether he or she was an illegal foreigner, was unknown to the accused if it is proved that the accused ought reasonably to have known the status of the foreigner, or whether he or she was an illegal foreigner.



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## SECTION 49(3): OFFENCES

(3) Anyone who knowingly employs an illegal foreigner or a foreigner in violation of this Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding one year:

Provided that such person's second conviction of such an offence shall be punishable by imprisonment not exceeding two years or a fine, and the third or subsequent convictions of such offences by imprisonment not exceeding five years without the option of a fine.



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# SECTION 43: OBLIGATION OF FOREIGNERS

A foreigner shall—

- (a) abide by the terms and conditions of his or her status, including any terms and conditions attached to the relevant visa or permanent residence permit, as the case may be, by the Director-General upon its issuance, extension or renewal, and that status shall expire upon the violation of those terms and conditions; and
- (b) depart upon expiry of his or her status.



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