



HM Courts &
Tribunals Service



Wiltshire, Hampshire & Isle of Wight

Portsmouth Magistrates Court,

Winston Churchill Avenue,

Portsmouth

DX 98494 Portsmouth

T 023928579

www.justice.gov.uk

Date: 28th April 2017

To: Licensing Authority
Licensing Services,
New Forest District Council
Appletree Court,
Lyndhurst, SO43 7PA

Dear Sir/Madam,

Notification of Illegal Working Compliance Order in respect of premises: Indian Tree, 14 Market Place, Ringwood, BH24 1AW

I write to inform you that in accordance with paragraph 5(11) of Schedule 6 Immigration Act 2016 and s. 167(1A) Licensing Act 2003 an Illegal Working Compliance Order was made in respect of the above licensed premises by Portsmouth Magistrates' Court on 28th April 2017 for a period of twelve months.

Yours faithfully,

A.O. Roveri
Acting Clerk to the Justices for Wiltshire, Hampshire and Isle of Wight



**IN THE EAST HAMPSHIRE MAGISTRATES' COURT SITTING AT PORTSMOUTH
MAGISTRATES' COURT**

APPLICATION FOR AN ILLEGAL WORKING COMPLIANCE ORDER

Complaint by Trevor PLEYDELL, Immigration Officer.

This is a civil application for an illegal working compliance order made by complaint under paragraph 5 of Schedule 6 to the Immigration Act 2016.

An application for the reimbursement of costs has also been made under paragraph 13 of Schedule 6. I will address the court on this later only if it decides to grant the compliance order.

Under paragraph 5, an application is being made to the court for an illegal working compliance order. This is within 48 hours of a closure notice being issued.

The application is made to the court on the basis that the conditions for service of the illegal working closure notice were met, as set out in the following paragraphs of Schedule 6 to the Immigration Act 2016:

1(3) The condition in this paragraph is that an employer operating at the premises in question was employing a person over the age of 16 and subject to immigration control –

(a) who has not been granted leave to enter or remain in the United Kingdom, or

(b) whose leave to enter or remain in the United Kingdom –

(i) is invalid,

(ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise), or

(iii) is subject to a condition preventing the person from accepting the employment.

And

1(6) The condition in this paragraph is that the employer, or a connected person in relation to the employer –

(a) has been convicted of an offence under section 21 of the Immigration, Asylum and Nationality Act 2006 ("the 2006 Act"),

(b) has, during the period of three years ending with the date on which the illegal working closure notice is issued, been required to pay a penalty under section 15 of the 2006 Act, or

(c) has at any time been required to pay such a penalty and failed to pay it.

On 27th April 2017 at 18:15hrs Home Office Immigration Enforcement visited the following premises Indian Tree 14 Market Place, Ringwood BH241AW based on intelligence received a premises licensed under the Licensing Act 2003.

How conditions necessary for the issue of the closure notice were met

Illegal workers

On 27th April 2017 at 18:15 hrs an intelligence led visit was conducted to Indian Tree, 14 Market Place, Ringwood, Hampshire, BH24 1AW entry gained by a Paragraph 17(2), immigration officers encountered the following persons subject to UK immigration control who were found to be working illegally on the premises:-

[REDACTED] male served Immigration paperwork and arrested for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa) and 1(3)(b)(ii) Schedule 6 to the Immigration Act 2016.

[REDACTED] was interviewed after attempting to evade officers by Officer ALDERMAN. During the interview [REDACTED] was questioned about his employment on site he claimed to have started as a Tandoori Chef the previous Monday and was employed by the head chef [REDACTED]. Officer ALDERMAN proceeded to interview chef [REDACTED] after arresting [REDACTED] about [REDACTED] employment who confirmed that he had started the previous week as a Tandoori Chef but the decision to employ him was not his to make but the boss's.

[REDACTED] male served Immigration paperwork and arrested illegal entry, Entry Without Leave, an offence contrary to 24(1)(a) of the Immigration Act 1971 (aa) and 1(3)(a) Schedule 6 to the Immigration Act 2016.

[REDACTED] was interviewed by officer PAYNE about his employment on site who initially claimed to have arrived the day before to visit and see the sea. After arrest and a search of his room evidence was seen confirming that he been in the area since December 2016 and was re interviewed when he confirmed to have worked on site for the last 3 months washing up in the kitchen and was given the position by the head chef.

[REDACTED] subsequently attended the address after I contacted him on mobile number 0 [REDACTED] given to me by one of the cleared front of house staff.

Adib Ahmed BACHHU born [REDACTED] was interviewed by Officer KERRIGAN where he was asked about the employment of [REDACTED] and [REDACTED] to which he denied all involvement,

knowledge or employment for them both even after photographs of both were shown to him. He was asked about his relationship to the business claiming that he bought the business from a Mohammed MIAH for £0 as he could not run it anymore. He was asked about employment of staff and claimed that he was responsible for the employment of all staff on site and that he has kept copies of relevant documents for them. He was asked about the license for the premises and confirmed that he had held the license there for one year and was also the Designated Premises Supervisor.

I referred the proceedings to CIO MASEY who authorised the 24 hr closure pending this application which was served on **Adib Ahmed BACHHU** born [REDACTED] at 20:16hrs along with the referral notice in respect of [REDACTED], [REDACTED] and [REDACTED].

4 Notices were placed on both sides of the front windows, internal door to the kitchen and external door to the kitchen as exhibited as TP05/270417/05. Paperwork also relating to **Adib Ahmed BACHHU** and his relationship to the premises were seized by me exhibited as TP01/270417/01 and TP02/270417/02.

No statutory excuse

The owner, **Adib Ahmed BACHHU** born [REDACTED], was asked to provide evidence that the correct right to work checks had been conducted on their employees. However, they were unable to satisfy the immigration officer that they had conducted the prescribed checks and therefore had no statutory excuse against liability for employing illegal workers.

Previous non compliance

In addition to illegal workers being identified on/working out of the premises, the employer or connected person in relation to the employer, Indian Tree (restaurant) is located at 14 Market Place, Ringwood, Hampshire BH24 1AW was served with civil penalty notice(s) on:-

1) **07 June 2012**, 5 persons were encountered during an intelligence led visit to Indian Tree and were identified as illegally employed and arrested:-

Arrest 1: [REDACTED], a Bangladeshi National (BGD) male served Immigration paperwork on visit day for illegal entry, Entry Without Leave, an offence contrary to 24(1)(a) of the Immigration Act 1971 (aa).

Arrest 2: [REDACTED] male served Immigration paperwork on visit day for overstaying his visa, an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Arrest 3: [REDACTED] BGD male served Immigration paperwork on visit day illegal entry, Entry Without Leave, an offence contrary to 24(1)(a) of the Immigration Act 1971 (aa).

Arrest 4: [REDACTED] male served Immigration paperwork on visit day for overstaying his visa, an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Arrest 5: [REDACTED] POR/4068062 served Immigration paperwork on visit day for overstaying his visa, an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

28 June 2012, Indian Tree Limited t/a Indian Tree Limited were served a Notification of Liability of £25,000 for a breach of section 15 of the IAN Act 2006 which was served in person on 07 June 2012 to **Adib Ahmed Bachhu**. Indian Tree Ltd t/a Indian Tree Limited company number 07284767 was Incorporated on 15/06/2010. Director listed as **Kamal HUSSAIN** born [REDACTED]. Registered office 46 Ormonde Avenue, Chichester PO197UX until 17/09/2014. Registered office from 17/09/2014: 40 Ingleside Road, Bristol BS151HQ. Indian Tree Ltd is in liquidation and is being wound up. Notification of Liability of £25,000 for a breach of section 15 of the Immigration Asylum and Nationalities (IAN) Act 2006. The penalty balance remains outstanding at £25,000.

2) 14 April 2015 6 persons were encountered during an intelligence led visit to Indian Tree and were identified as illegally employed:-

Arrest 1: [REDACTED] male served Immigration paperwork previously for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Arrest 2: [REDACTED] male served Immigration paperwork on visit day for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Encountered 3: [REDACTED] BGD male served Immigration paperwork previously for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Encountered 4: [REDACTED] BGD male served Immigration paperwork on visit day for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Encountered 5: [REDACTED] BGD male served Immigration paperwork previously for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Encountered 6: [REDACTED] BGD male served Immigration paperwork previously for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

A Referral Notice served to Rujina BEGUM.

10 June 2015, Tree Food Ltd t/a The Indian Tree were served a Civil Penalty Notice of £75,000 for a breach of section 15 of the IAN Act 2006.

Tree Foods Ltd t/a The Indian Tree Company number 08104940. Director **Rujina BEGUM** born [REDACTED]. The company was dissolved on 01/09/2015. **Licence Holder** as per checks with Hampshire Police Licensing & Alcohol Harm Reduction Team: **Adib Ahmed Bachhu**. The penalty balance remains outstanding at £75,000.

3) 03 March 2016 4 persons were encountered during an intelligence led visit to Indian Tree and were identified as illegally employed:-

Arrest 2: [REDACTED] BGD male served Immigration paperwork on visit day for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Arrest 3: [REDACTED] BGD male served Immigration paperwork on visit day for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Encountered 3: [REDACTED] BGD male served Immigration paperwork on visit day for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

Encountered 4: [REDACTED] BGD male served Immigration paperwork on visit day for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

A Referral Notice served to Mukaddim CHOWDHURY.

Curry Foods Ltd t/a The Indian Tree were served a Civil Penalty Notice of £60,000 for a breach of section 15 of the IAN Act 2006.

Curry Foods Ltd t/a The Indian Tree Company number 09433859. Director (until December 2015) **Muhammad Abdul RAZZAK**, born [REDACTED], Director (from 01/01/2016) **Mohammed ALI** born [REDACTED]. **Registered office:** 14 Market Place, Ringwood BH241AW.

On 19 April 2016, Curry Foods Ltd t/a Indian Tree were served a Civil Penalty Notice of £60,000 for a breach of section 15 of the IAN Act 2006. **Licence Holder** as per checks with Hampshire Police Licensing & Alcohol Harm Reduction Team: **Adib Ahmed Bachhu**. The penalty balance remains outstanding at £60,000.

4) 27 October 2016 1 person was encountered during an intelligence led visit to Indian Tree and were identified as illegally employed:-

[REDACTED] BGD served Immigration paperwork on visit day for overstaying his visa an offence contrary to 24(1)(b)(i) of the Immigration Act 1971 (aa).

A Referral Notice was served in person to **Adib Ahmed Bachhu**.

Bubble Catering Ltd. t/a Indian Tree, Company no.10050170 incorporated 08/03/16. Registered address: 14 Market Place, Ringwood BH241AW. Director **Adib Ahmed Bachhu**.

On 16 December 2016, Curry Foods Ltd t/a Indian Tree were served a Civil Penalty Notice of £10,000 for a breach of section 15 of the IAN Act 2006. **Licence Holder** as per checks with Hampshire Police Licensing & Alcohol Harm Reduction Team: **Adib Ahmed Bachhu**. The penalty balance remains outstanding at £10,000.

Accordingly, the minimum threshold for service of the closure notice, as set out in paragraph 1(3) and 1(6), was satisfied and the requirement in paragraph 5(5)(a) for the issue of an illegal working compliance order has been met. In addition, as required by paragraph 5(5)(b), the court must also be satisfied that it is necessary to make the illegal working compliance order to prevent an employer operating at the premises from employing an illegal worker.

Reasons why it is considered that the employer operating at the premises is likely to continue to employ illegal workers

2 of the 8 members of staff encountered on the visit of the 27th April 2017 to the Indian Tree 14 Market Place, Ringwood, Hampshire BH24 1AW were found to be working illegally with no records held on site to demonstrate any due diligence

shown by the respondent in their employment or checks made prior to their employment.

Historical evidence linking **Adib Ahmed BACHHU** born [REDACTED] also known as **Tayob ALI** and his wife **Rujina BEGUM** born [REDACTED] to the premises since 2010 to date demonstrates a high level of non compliance and disregard to employment regulations and have tried to circumnavigate payments of the 4 civil penalties by changing the management and ownership of the premises whilst retaining the license as confirmed by Hampshire Police which is not withstanding that a 5th penalty for a maximum of £40,000 is currently being considered by the Home Office Civil Penalties Team.

Requests for the compliance order

In view of the evidence of the serious and repeat breaches of illegal working legislation by the employer, I would request that court issues a compliance order for *12 months*

And that the compliance order contains the following provisions:

- 1. Whilst access to the premises is restricted by virtue of this order, no person is to remove a copy of this order which is fixed to the premises without the permission of an immigration officer or the court.*

- 2. The Respondent must carry out checks relating to the right to work in accordance with the Illegal Working Compliance Orders Regulations 2016 in respect of all the Respondent's employees who work at the premises Indian Tree 14 Market Place, Ringwood BH241AW.*

- 3. Such right to work checks are to be completed by 4pm on 5th May 2017.*

- 4. The Respondent must carry out checks relating to the right to work in accordance with the Illegal Working Compliance Order Regulations 2016 in respect any prospective employees before entering into a contract of employment with the prospective employee.*

- 5. Any copies of documents retained by the Respondent as a result of conducting checks relating to the right to work in accordance with the Illegal Working Compliance Orders Regulations 2016 are to be stored securely by*

the Respondent on the premises at Indian Tree 14 Market Place, Ringwood BH241AW.

- 6. Any employee required to provide documentation by the Respondent as a result of obligations imposed on the Respondent by this Order must use all reasonable endeavours to promptly comply with such a requirement.*
- 7. An immigration officer may enter the premises at Indian Tree 14 Market Place, Ringwood BH241AW in order to inspect whether the terms of this order have been complied with.*
- 8. An immigration officer inspecting premises in accordance with this Order may be accompanied by other immigration officers or constables for the purpose of inspecting compliance with this Order.*
- 9. Such entry is only permitted between 18:00hrs and 23:50hrs on any day, or any time that an immigration officer has reasonable grounds for believing that work is being carried out on the premises, but entry may only be made once per calendar month commencing on the date this Order is made.*
- 10. Any immigration officer who enters the premises to carry out an inspection under this Order may require the Respondent, or person appearing to represent the Respondent, to produce on demand documents relating to the right to work in accordance with the Illegal Working Compliance Orders Regulations 2016.*
- 11. Any immigration officer who enters the premises to carry out an inspection under this Order may require any person whom they have reasonable grounds to suspect is working on the premises to co-operate with a biometric scan of their fingerprints for the purpose of ascertaining their identity and immigration status. No biometric information may be retained as a result of this scan.*
- 12. Before the Respondent operates a business at premises other than at Indian Tree 14 Market Place, Ringwood BH241AW, the Respondent must notify an*

immigration officer by writing to South Central Immigration, Compliance and Enforcement (I.C.E), 2nd Floor Norman House, Kettering Terrace, Portsmouth, Hampshire, PO27AE.

13. This Order shall cease to have effect at 00:00hrs on 27th April 2018, unless extended by Order of the Court.

14. The Respondent do pay the Secretary of State for the Home Department the sum of £226 by 4pm on 12th May 2017 on account of the Respondent's costs in making the application for this Order.

Right to work checks and inspection regime

I would respectfully request that the court requires the employer **Adib Ahmed BACHHU** born-~~██████████~~ also known as **Tayob ALI, Adub A Bachho** or other named person to be responsible for undertaking checks to confirm the right to work of all their employees who work at the premises for the duration of the order, and to produce to an immigration officer these documents relating to right to work.

I would request that the checks of existing employees shall be undertaken by 5th May 2017 and, for each new employee before they commence employment. To avoid the court having to specify the detail of these checks, and the obligation to produce documents to an immigration officer, the court may order that these checks and the production of documents are conducted in accordance with the requirements prescribed by the Secretary of State in the Illegal Working Compliance Orders Regulations 2016.

In order to inspect for compliance with right to work checks and other aspect of the compliance order, it is important that an immigration officer be given access to the premises during the hours of 18:00hrs to 23:50hrs, or any other time the immigration officer has reasonable grounds for believing that work is being carried out at the premises. To ensure such a requirement is proportionate, I would ask the court to restrict the number of inspection visits to *once per month* from the date of the order for the duration of the order.

Other provisions the court considers appropriate

In accordance with the power given to the court by paragraph 5(6)(e) of Schedule 6 to the Immigration Act 2016, I would ask the court to make the following additional requirements:

Right to work checks

That copies of any documents retained as a result of right to work checks under the order be held on the premises for the duration of the compliance order. This will facilitate inspection visits to ensure that the employer has complied with the order.

That an immigration officer conducting an inspection pursuant to the compliance order may require any person he or she reasonably suspects to be working at the premises to co-operate with a biometric scan of their fingerprints which will be carried out by means of a handheld device called 'Rap-ID'. This check is essential to verify the identity and immigration status of the workers. No biometric information is retained from this scan.

That, if an immigration officer considers it necessary, the immigration officer may be accompanied by a constable for the purpose of an inspection visit.

Employee co-operation

That all employees must promptly co-operate using all reasonable endeavours to provide an Immigration Officer or a Constable any documentation the Immigration Officer or a Constable requires from them as a result of the order.

Application of the compliance order to new premises

That **Adib Ahmed BACHHU** born [REDACTED] also known as **Tayob ALI, Adub A Bachho** must inform an immigration officer in the event that *he* intends to move the operation of the business from the premises while the compliance order remains in force.

Summary of the reasons for requesting the court to make the order

In summary, I would draw the court's attention to the following points

A total of £170,000 issued to the premises in respect of the 4 previous visits to the premises where **Adib Ahmed BACHHU** born [REDACTED] also known as **Tayob ALI, Adub A Bachho** has been the licence holder remains unpaid and demonstrates a high level of non compliance whilst trying to evade these penalties by changing the premises ownership when in reality is the person responsible for payment and employment.

In addition to historical visits and penalties issued the Home Office ICE arrest team visit of 27th April 2017 has yielded a further potential penalty of up to a maximum of £40,000 for the 2 illegal employees found to be working and more specifically employed by **Adib Ahmed BACHHU** born [REDACTED] also known as **Tayob ALI, Adub A Bachho**.

Accordingly, I would submit that the making of a compliance order is a necessary and proportionate response in the circumstances to prevent continued illegal working and respectfully request that the court grants the application.

If the court grants the application for the illegal working compliance order, I would draw the court's attention to the obligation in paragraph 5(11) of Schedule 6 to notify the relevant licensing authority, as the premises is one for which a premises licence is in force under the Licensing Act 2003.

Reimbursement of costs for clearing, securing or maintaining premises

I would also request that the court makes an order for the reimbursement of costs under paragraph 13 of schedule 6. The court may make an order it thinks appropriate for the partial or full reimbursement by the owner or occupier of the premises for expenditure incurred for the purpose of clearing, securing or maintaining the premises in respect of which an illegal working compliance order is in force. The application must be made while the compliance order in force or within 3 months of the date on which the order ceased to have effect.

I would respectfully request that the court makes an order for the reimbursement of these costs from the *owner* of the premises.

Taken (and sworn) before me

Dated this 28th day of April 2017

Justice of the Peace

Justices' Clerk





East Hampshire Magistrates Court

Code 1800

For Portsmouth - The Law Courts, Winston Churchill Avenue, Portsmouth PO1 2DQ

For Fareham - The Courthouse, Trinity Street, Fareham, PO16 7SB

Telephone Enquiries 02392 819421

ADIB AHMED BACCHU
INDIAN TREE
14 MARKET PLACE
RINGWOOD
BH24 1AW

Case number: **441700129203**

Orders

The court has heard the matters shown below and made the orders listed.

Date: 28 April 2017

Alessandro Roveri

Justices' Clerk

Matters and orders

441700129203/1

Complaint for a civil order as follows Application for Illegal Working Compliance Order.
In accordance with paragraph 5, Schedule 6 of the Immigration Act 2016.

It is ordered that the respondent Adib Ahmed Bachhu of Indian Tree, 14 Market Place, Ringwood to pay to the Secretary of State for the Home Department, costs in the sum of £226.00

It is ordered that UPON HEARING the complaint made by Immigration Officer Pleydell on 28th April 2017.

AND UPON the court being satisfied that the conditions in paragraphs 1(3) and 1(6) of Schedule 6 to the Immigration Act 2016 are satisfied and that it is necessary to make an illegal working compliance order to prevent an employer operating at the premises from employing an illegal worker

1.The Respondent must carry out checks relating to the right to work in accordance with the Illegal Working Compliance Orders Regulations 2016 in respect of all the Respondent's employees who work at the premises Indian Tree 14 Market Place, Ringwood BH241AW.

2.Such right to work checks are to be completed by 4pm on 5th May 2017.

3.The Respondent must carry out checks relating to the right to work in accordance with the Illegal Working Compliance Order Regulations 2016 in respect any prospective employees before entering into a contract of employment with the prospective employee.

4.Any copies of documents retained by the Respondent as a result of conducting checks relating to the right to work in accordance with the Illegal Working Compliance Orders Regulations 2016 are to be stored securely by the Respondent on the premises at Indian Tree 14 Market Place, Ringwood BH241AW.

5.Any employee required to provide documentation by the Respondent as a result of obligations imposed on the Respondent by this Order must use all reasonable endeavours to promptly comply with such a requirement.

6.An immigration officer may enter the premises at Indian Tree 14 Market Place, Ringwood BH241AW in order to inspect whether the terms of this order have been complied with.

7.An immigration officer inspecting premises in accordance with this Order may be accompanied by other immigration officers or constables for the purpose of inspecting compliance with this Order.

8.Such entry is only permitted between 18:00hrs and 23:50hrs on any day, or any time that an immigration officer has reasonable grounds for believing that work is being carried out on the premises, but entry may only be made once per calendar month commencing on the date this Order is made.

9.Any immigration officer who enters the premises to carry out an inspection under this Order may require the Respondent, or person appearing to represent the Respondent, to produce on demand documents relating to the right to work in accordance with the Illegal Working Compliance Orders Regulations 2016.

10. Any immigration officer who enters the premises to carry out an inspection under this Order may require any person whom they have reasonable grounds to suspect is working on the premises to co-operate with a biometric scan of their fingerprints for the purpose of ascertaining their identity and immigration status. No biometric information may be retained as a result of this scan.

11.Before the Respondent operates a business at premises other than at Indian Tree 14 Market Place, Ringwood BH241AW, the Respondent must notify an immigration officer by writing to South Central Immigration, Compliance and Enforcement (I.C.E), 2nd Floor Norman House, Kettering Terrace, Portsmouth, Hampshire, PO27AE.

12.This Order shall cease to have effect at midnight on 27th April 2018.