



Immigration Act 1971

1971 CHAPTER 77

PART III

CRIMINAL PROCEEDINGS

25 Assisting illegal entry, and harbouring.

- (1) Any person knowingly concerned in making or carrying out arrangements for securing or facilitating
- [^{F1}(a) the entry into the United Kingdom of anyone whom he knows or has reasonable cause for believing to be an illegal entrant;
 - (b) the entry into the United Kingdom of anyone whom he knows or has reasonable cause for believing to be an asylum claimant; or
 - (c) the obtaining by anyone of leave to remain in the United Kingdom by means which he knows or has reasonable cause for believing to include deception,]

shall be guilty of an offence, punishable on summary conviction with a fine of not more than £400 or with imprisonment for not more than six months, or with both, or on conviction on indictment with a fine or with imprisonment for not more than [^{F2}ten] years, or with both.

[^{F3}(1A) Nothing in subsection (1)(b) applies to anything done in relation to a person who—

- (a) has been detained under paragraph 16 of Schedule 2 to this Act; or
- (b) has been granted temporary admission under paragraph 21 of that Schedule.

(1B) Nothing in subsection (1)(b) applies to anything done by a person otherwise than for gain.

(1C) Nothing in subsection (1)(b) applies to anything done to assist an asylum claimant by a person in the course of his employment by a bona fide organisation, if the purposes of that organisation include assistance to persons in the position of the asylum claimant.

(1D) “Asylum claimant” means a person who intends to make a claim that it would be contrary to the United Kingdom’s obligations under the Refugee Convention or the

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Human Rights Convention for him to be removed from, or required to leave, the United Kingdom.

(1E) “Refugee Convention” and “Human Rights Convention” have the meaning given in the Immigration and Asylum Act 1999.]

(2) Without prejudice to subsection (1) above a person knowingly harbouring anyone whom he knows or has reasonable cause for believing to be either an illegal entrant or a person who has committed an offence under section 24(1)(b) or (c) above, shall be guilty of an offence, punishable on summary conviction with a fine of not more than [^{F4}level 5 on the standard scale] or with imprisonment for not more than six months, or with both.

^{F5}(3)

(4) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under this section.

(5) [^{F6}Paragraphs (a) and (b) of subsection (1)] above shall apply to things done outside as well as to things done in the United Kingdom where they are done—

- [^{F7}(a) by a British citizen, a British Dependent Territories citizen, or a British Overseas citizen;
- (b) by a person who under the ^{M1}British Nationality Act 1981 is a British subject; or
- (c) by a British protected person (within the meaning of that Act).]

(6) Where a person convicted on indictment of an offence under [^{F8}subsection (1)(a) or (b)] above is at the time of the offence—

- (a) the owner or one of the owners of a ship, aircraft or vehicle used or intended to be used in carrying out the arrangements in respect of which the offence is committed; or
- (b) a director or manager of a company which is the owner or one of the owners of any such ship, aircraft or vehicle; or
- (c) captain of any such ship or aircraft; [^{F9}or
- (d) the driver of any such vehicle;]

then subject to subsections (7) and (8) below the court before which he is convicted may order the forfeiture of the ship, aircraft or vehicle.

In this subsection (but not in subsection (7) below) “owner” in relation to a ship, aircraft or vehicle which is the subject of a hire-purchase agreement, includes the person in possession of it under that agreement and, in relation to a ship or aircraft, includes a charterer.

(7) A court shall not order a ship or aircraft to be forfeited under subsection (6) above on a person’s conviction, unless—

- (a) in the case of a ship, it is of less than 500 tons gross tonnage or, in the case of an aircraft (not being a hovercraft), it is of less than 5,700 kilogrammes operating weight; or
- (b) the person convicted is at the time of the offence the owner or one of the owners, or a director or manager of a company which is the owner or one of the owners, of the ship or aircraft; or
- (c) the ship or aircraft, under the arrangements in respect of which the offence is committed, has been used for bringing more than 20 persons at one time to the United Kingdom as illegal entrants, and the intention to use the ship or aircraft

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in bringing persons to the United Kingdom as illegal entrants was known to, or could by the exercise of reasonable diligence, have been discovered by, some person on whose conviction the ship or aircraft would have been liable to forfeiture in accordance with paragraph (b) above.

In this subsection “operating weight” means in relation to an aircraft the maximum total weight of the aircraft and its contents at which the aircraft may take off anywhere in the world, in the most favourable circumstances, in accordance with the certificate of airworthiness in force in respect of the aircraft.

- (8) A court shall not order a ship, aircraft or vehicle to be forfeited under subsection (6) above, where a person claiming to be the owner of the ship, aircraft or vehicle or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

Textual Amendments

- F1** S. 25(1)(a)-(c) substituted (1.10.1996) for words by 1996 c. 49, s. 5(1); S.I. 1996/2053, art. 2, **Sch. Pt. III**
- F2** Word in s. 25(1) substituted (14.2.2000) by 1999 c. 33, s. 29(1)(2); S.I. 2000/168, art. 2, **Sch**
- F3** S. 25(1A)-(1E) substituted (2.10.2000) for s. 25(1A) by 1999 c. 33, s. 29(1)(3); S.I. 2000/2444, art. 2, **Sch.** (subject to transitional provisions in art. 3, Sch. 2)
- F4** Words substituted (E.W.) (S.) (11.4.1983) by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48), ss. 38, 46** and (S.) **Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G** (as inserted by **Criminal Justice Act 1982 (c. 48), s. 54**), and (N.I.) by virtue of S.I. 1984/703 (N.I. 3), **arts. 5, 6**
- F5** S. 25(3) repealed (14.2.2000) by 1999 c. 33, ss. 169(1)(3), Sch. 14 paras. 43, 51, **Sch. 16**; S.I. 2000/168, art. 2, **Sch**
- F6** Words in s. 25(5) substituted (14.2.2000) by 1999 c. 33, s. 29(1)(4); S.I. 2000/168, art. 2, **Sch**
- F7** S. 25(5)(a)—(c) substituted for s. 25(5)(a)—(e) by **British Nationality Act 1981 (c. 61), s. 52(7), Sch. 4 para. 6**
- F8** Words in s. 25(6) substituted (1.10.1996) by 1996 c. 49, s. 5(4); S.I. 1996/2053, art. 2, **Sch. Pt. III**
- F9** S. 25(6)(d) and preceding word inserted (3.4.2000) by 1999 c. 33, s. 38(1)(3); S.I. 2000/464, art. 2, **Sch.**

Modifications etc. (not altering text)

- C1** S. 25 modified (2.8.1993) by S.I. 1993/1813, arts. 7(1), 1, **Sch. 4(8)**

Marginal Citations

- M1** 1981 c. 61.

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