



UK Borders Act 2007

2007 CHAPTER 30

Enforcement

22 Assaulting an immigration officer: offence

- (1) A person who assaults an immigration officer commits an offence.
- (2) A person guilty of an offence under this section shall be liable on summary conviction to—
 - (a) imprisonment for a period not exceeding 51 weeks,
 - (b) a fine not exceeding level 5 on the standard scale, or
 - (c) both.
- (3) In the application of this section to Northern Ireland the reference in subsection (2)(a) to 51 weeks shall be treated as a reference to 6 months.
- (4) In the application of this section to Scotland the reference in subsection (2)(a) to 51 weeks shall be treated as a reference to 12 months.
- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference in subsection (2)(a) to 51 weeks shall be treated as a reference to 6 months.

23 Assaulting an immigration officer: powers of arrest, &c.

- (1) An immigration officer may arrest a person without warrant if the officer reasonably suspects that the person has committed or is about to commit an offence under section 22.
- (2) An offence under section 22 shall be treated as—
 - (a) a relevant offence for the purposes of sections 28B and 28D of the Immigration Act 1971 (c. 77) (search, entry and arrest), and
 - (b) an offence under Part 3 of that Act (criminal proceedings) for the purposes of sections 28(4), 28E, 28G and 28H (search after arrest, &c.) of that Act.

- (3) The following provisions of the Immigration Act 1971 shall have effect in connection with an offence under section 22 of this Act as they have effect in connection with an offence under that Act—
- (a) section 28I (seized material: access and copying),
 - (b) section 28J (search warrants: safeguards),
 - (c) section 28K (execution of warrants), and
 - (d) section 28L(1) (interpretation).

24 Seizure of cash

- (1) Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 (c. 29) (recovery of cash) shall apply in relation to an immigration officer as it applies in relation to a constable.
- (2) For that purpose—
- (a) “unlawful conduct”, in or in relation to section 289, means an offence under the Immigration Acts,
 - (b) “unlawful conduct”, in or in relation to other provisions, means an offence—
 - (i) under the Immigration Acts, or
 - (ii) listed in section 14(2) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19),
 - (c) “senior officer” in section 290 means an official of the Secretary of State who is a civil servant of the rank of at least Assistant Director,
 - (d) in section 292 the words “(in relation to England and Wales and Northern Ireland)” shall be disregarded,
 - (e) section 293 shall not apply,
 - (f) an application for an order under section 295(2) must be made—
 - (i) in relation to England and Wales or Northern Ireland, by an immigration officer, and
 - (ii) in relation to Scotland, by the Scottish Ministers in connection with their functions under section 298 or by a procurator fiscal,
 - (g) an application for forfeiture under section 298 must be made—
 - (i) in relation to England and Wales or Northern Ireland, by an immigration officer, and
 - (ii) in relation to Scotland, by the Scottish Ministers, and
 - (h) any compensation under section 302 shall be paid by the Secretary of State.
- (3) The Secretary of State may by order amend subsection (2)(c) to reflect a change in nomenclature; and an order—
- (a) shall be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

25 Forfeiture of detained property

- (1) A court making a forfeiture order about property may order that the property be taken into the possession of the Secretary of State (and not of the police).
- (2) An order may be made under subsection (1) only if the court thinks that the offence in connection with which the order is made—

- (a) related to immigration or asylum, or
 - (b) was committed for a purpose connected with immigration or asylum.
- (3) In subsection (1) “forfeiture order” means an order under—
- (a) section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), or
 - (b) Article 11 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)).

26 Disposal of property

- (1) In this section “property” means property which—
- (a) has come into the possession of an immigration officer, or
 - (b) has come into the possession of the Secretary of State in the course of, or in connection with, a function under the Immigration Acts.
- (2) A magistrates' court may, on the application of the Secretary of State or a claimant of property—
- (a) order the delivery of property to the person appearing to the court to be its owner, or
 - (b) if its owner cannot be ascertained, make any other order about property.
- (3) An order shall not affect the right of any person to take legal proceedings for the recovery of the property, provided that the proceedings are instituted within the period of six months beginning with the date of the order.
- (4) An order may be made in respect of property forfeited under section 25, or under section 25C of the Immigration Act 1971 (c. 77) (vehicles, &c.), only if—
- (a) the application under subsection (2) above is made within the period of six months beginning with the date of the forfeiture order, and
 - (b) the applicant (if not the Secretary of State) satisfies the court—
 - (i) that the applicant did not consent to the offender's possession of the property, or
 - (ii) that the applicant did not know and had no reason to suspect that the property was likely to be used, or was intended to be used, in connection with an offence.
- (5) The Secretary of State may make regulations for the disposal of property—
- (a) where the owner has not been ascertained,
 - (b) where an order under subsection (2) cannot be made because of subsection (4) (a), or
 - (c) where a court has declined to make an order under subsection (2) on the grounds that the court is not satisfied of the matters specified in subsection (4) (b).
- (6) The regulations may make provision that is the same as or similar to provision that may be made by regulations under section 2 of the Police (Property) Act 1897 (c. 30) (or any similar enactment applying in relation to Scotland or Northern Ireland); and the regulations—
- (a) may apply, with or without modifications, regulations under that Act,
 - (b) may, in particular, provide for property to vest in the Secretary of State,
 - (c) may make provision about the timing of disposal (which, in particular, may differ from provision made by or under the Police (Property) Act 1897),

Status: This is the original version (as it was originally enacted).

- (d) shall have effect only in so far as not inconsistent with an order of a court (whether or not under subsection (2) above),
 - (e) shall be made by statutory instrument, and
 - (f) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) For the purposes of subsection (1) it is immaterial whether property is acquired as a result of forfeiture or seizure or in any other way.
- (8) In the application of this section to Scotland a reference to a magistrates' court is a reference to the sheriff.

27 Employment: arrest

In section 28AA of the Immigration Act 1971 (c. 77) (arrest with warrant) for subsection (1)(b) substitute—

“(b) section 21(1) of the Immigration, Asylum and Nationality Act 2006.”

28 Employment: search for personnel records

In section 28FA(7) of the Immigration Act 1971 (enforcement: search for personnel records) for “an offence under section 8 of the Asylum and Immigration Act 1996 (c. 49)” substitute “an offence under section 21 of the Immigration, Asylum and Nationality Act 2006”.

29 Facilitation: arrival and entry

In section 25A(1)(a) of the Immigration Act 1971 (helping asylum seeker to enter UK: offence) after “the arrival in” insert “, or the entry into,”.

30 Facilitation: territorial application

- (1) For section 25(4) and (5) of the Immigration Act 1971 (assisting unlawful immigration: territorial application) substitute—

“(4) Subsection (1) applies to things done whether inside or outside the United Kingdom.”

- (2) In sections 25A(4) and 25B(4) (facilitation: asylum-seekers and deportees) for “Subsections (4) to (6)” substitute “Subsections (4) and (6)”.

31 People trafficking

- (1) In section 4(1) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (trafficking) after “the arrival in” insert “, or the entry into,”.

- (2) For section 5(1) and (2) of that Act (trafficking: extent) substitute—

“(1) Subsections (1) to (3) of section 4 apply to anything done whether inside or outside the United Kingdom.”

- (3) In section 57(1) of the Sexual Offences Act 2003 (c. 42) (trafficking) after “the arrival in” insert “, or the entry into,”.

(4) For sections 60(2) and (3) of that Act (trafficking: extent) substitute—

“(2) Sections 57 to 59 apply to anything done whether inside or outside the United Kingdom.”