



# Immigration Act 1971

## 1971 CHAPTER 77

### PART III

#### CRIMINAL PROCEEDINGS

#### 24 **Illegal entry and similar offences**

- (1) A person who is not patrial shall be guilty of an offence punishable on summary conviction with a fine of not more than £200 or with imprisonment for not more than six months, or with both, in any of the following cases:—
- (a) if contrary to this Act he knowingly enters the United Kingdom in breach of a deportation order or without leave;
  - (b) if, having only a limited leave to enter or remain in the United Kingdom, he knowingly either—
    - (i) remains beyond the time limited by the leave; or
    - (ii) fails to observe a condition of the leave ;
  - (c) if, having lawfully entered the United Kingdom without leave by virtue of section 8(1) above, he remains without leave beyond the time allowed by section 8(1);
  - (d) if, without reasonable excuse, he fails to comply with any requirement imposed on him under Schedule 2 to this Act to report to a medical officer of health, or to attend, or submit to a test or examination, as required by such an officer;
  - (e) if, without reasonable excuse, he fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence or as to reporting to the police or to an immigration officer;
  - (f) if he disembarks in the United Kingdom from a ship or aircraft after being placed on board under Schedule 2 or 3 to this Act with a view to his removal from the United Kingdom;
  - (g) if he embarks in contravention of a restriction imposed by or under an Order in Council under section 3(7) of this Act.

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- (2) A constable or immigration officer may arrest without warrant anyone who has, or whom he, with reasonable cause, suspects to have, committed or attempted to commit an offence under this section other than an offence under subsection (1)(d) above.
- (3) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(a), (b)(i) and (c) above.
- (4) In proceedings for an offence against subsection (1)(a) above of entering the United Kingdom without leave,—
  - (a) any stamp purporting to have been imprinted on a passport or other travel document by an immigration officer on a particular date for the purpose of giving leave shall be presumed to have been duly so imprinted, unless the contrary is proved ;
  - (b) proof that a person had leave to enter the United Kingdom shall lie on the defence if, but only if, he is shown to have entered within six months before the date when the proceedings were commenced.

## **25 Assisting illegal entry, and harbouring**

- (1) Any person knowingly concerned in making or carrying out arrangements for securing or facilitating the entry into the United Kingdom of anyone whom he knows or has reasonable cause for believing to be an illegal entrant 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 seven years, or with both.
- (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 £400 or with imprisonment for not more than six months, or with both.
- (3) A constable or immigration officer may arrest without warrant anyone who has, or whom he, with reasonable cause, suspects to have, committed an offence under subsection (1) above.
- (4) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under this section.
- (5) Subsection (1) above shall apply to things done outside as well as to things done in the United Kingdom where they are done—
  - (a) by a citizen of the United Kingdom and Colonies;
  - (b) by a British subject by virtue of section 2 of the British Nationality Act 1948 (continuance of certain subjects of the Republic of Ireland as British subjects);
  - (c) by a British subject without citizenship by virtue of section 13 or 16 of that Act (which relate respectively to British subjects whose citizenship had not been ascertained at the commencement of that Act and to persons who had ceased to be British on loss of British nationality by a parent);
  - (d) by a British subject by virtue of the British Nationality Act 1965 ; or
  - (e) by a British protected person (within the meaning of the British Nationality Act 1948).

(6) Where a person convicted on indictment of an offence under subsection (1) 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;

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 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.

## **26 General offences in connection with administration of Act**

(1) A person shall be guilty of an offence punishable on summary conviction with a fine of not more than £200 or with imprisonment for not more than six months, or with both, in any of the following cases—

- (a) if, without reasonable excuse, he refuses or fails to submit to examination under Schedule 2 to this Act;
- (b) if, without reasonable excuse, he refuses or fails to furnish or produce any information in his possession, or any documents in his possession or control,

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which he is on an examination under that Schedule required to furnish or produce;

- (c) if on any such examination or otherwise he makes or causes to be made to an immigration officer or other person lawfully acting in the execution of this Act a return, statement or representation which he knows to be false or does not believe to be true;
  - (d) if, without lawful authority, he alters any certificate of patriality, entry clearance, work permit or other document issued or made under or for the purposes of this Act, or uses for the purposes of this Act, or has in his possession for such use, any passport, certificate of patriality, entry clearance, work permit or other document which he knows or has reasonable cause to believe to be false ;
  - (e) if, without reasonable excuse, he fails to complete and produce a landing or embarkation card in accordance with any order under Schedule 2 to this Act;
  - (f) if, without reasonable excuse, he fails to comply with any requirement of regulations under section 4(3) or of an order under section 4(4) above ;
  - (g) if, without reasonable excuse, he obstructs an immigration officer or other person lawfully acting in the execution of this Act.
- (2) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(c) and (d) above.

## **27 Offences by persons connected with ships or aircraft or with ports**

A person shall be guilty of an offence punishable on summary conviction with a fine of not more than £200 or with imprisonment for not more than six months, or with both, in any of the following cases—

- (a) if, being the captain of a ship or aircraft,—
  - (i) he knowingly permits a person to disembark in the United Kingdom when required under Schedule 2 or 3 to this Act to prevent it, or fails without reasonable excuse to take any steps he is required by or under Schedule 2 to take in connection with the disembarkation or examination of passengers or for furnishing a passenger list or particulars of members of the crew; or
  - (ii) he fails, without reasonable excuse, to comply with any directions given him under Schedule 2 or 3 with respect to the removal of a person from the United Kingdom;
- (b) if, as owner or agent of a ship or aircraft,—
  - (i) he arranges, or is knowingly concerned in any arrangements, for the ship or aircraft to call at a port other than a port of entry contrary to any provision of Schedule 2 to this Act; or
  - (ii) he fails, without reasonable excuse, to take any steps required by an order under Schedule 2 for the supply to passengers of landing or embarkation cards; or
  - (iii) he fails, without reasonable excuse, to make arrangements for the removal of a person from the United Kingdom when required to do so by directions given under Schedule 2 or 3 to this Act;
- (c) if, as owner or agent of a ship or aircraft or as a person concerned in the management of a port, he fails, without reasonable excuse, to take any steps required by Schedule 2 in relation to the embarkation or disembarkation of passengers where a control area is designated.

## 28 Proceedings

- (1) Where the offence is one to which, under section 24, 25 or 26 above, an extended time limit for prosecutions is to apply, then—
  - (a) an information relating to the offence may in England and Wales be tried by a magistrates' court if it is laid within six months after the commission of the offence, or if it is laid within three years after the commission of the offence and not more than two months after the date certified by a chief officer of police to be the date on which evidence sufficient to justify proceedings came, to the notice of an officer of his police force; and
  - (b) summary proceedings for the offence may in Scotland be commenced within six months after the commission of the offence, or within three years after the commission of the offence and not more than two months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify proceedings came to his knowledge; and
  - (c) a complaint charging the commission of the offence may in Northern Ireland be heard and determined by a magistrates' court if it is made within six months after the commission of the offence, or if it is made within three years after the commission of the offence and not more than two months after the date certified by an officer of police not below the rank of assistant chief constable to be the date on which evidence sufficient to justify the proceedings came to the notice of the police in Northern Ireland.
- (2) For purposes of subsection (1)(b) above proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed without undue delay; and a certificate of the Lord Advocate as to the date on which such evidence as is mentioned in subsection (1)(b) came to his knowledge shall be conclusive evidence.
- (3) For the purposes of the trial of a person for an offence under this Part of this Act, the offence shall be deemed to have been committed either at the place at which it actually was committed or at any place at which he may be.
- (4) Any powers exercisable under this Act in the case of any person may be exercised notwithstanding that proceedings for an offence under this Part of this Act have been taken against him.