



Immigration Act 1971

1971 CHAPTER 77

PART III

CRIMINAL PROCEEDINGS

[^{F1}25BA Facilitation offences: application to rescuers

- (1) A person does not commit a facilitation offence if the act of facilitation was an act done by or on behalf of, or co-ordinated by—
 - (a) Her Majesty's Coastguard, or
 - (b) an overseas maritime search and rescue authority exercising similar functions to those of Her Majesty's Coastguard.
- (2) In proceedings for a facilitation offence, it is a defence for the person charged with the offence to show that—
 - (a) the assisted individual had been in danger or distress at sea, and
 - (b) the act of facilitation was an act of providing assistance to the individual at any time between—
 - (i) the time when the assisted individual was first in danger or distress at sea, and
 - (ii) the time when the assisted individual was delivered to a place of safety on land.
- (3) For the purposes of subsection (2), the following are not to be treated as an act of providing assistance—
 - (a) the act of delivering the assisted individual to the United Kingdom in circumstances where—
 - (i) the United Kingdom was not the nearest place of safety on land to which the assisted individual could have been delivered, and
 - (ii) the person charged with the offence did not have a good reason for delivering the assisted individual to the United Kingdom instead of to a nearer place of safety on land;

Changes to legislation: Immigration Act 1971, Section 25BA is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) the act of steering a ship in circumstances where the person charged with the offence was on the same ship as the assisted individual at the time when the individual was first in danger or distress at sea.
- (4) A person is taken to have shown a fact mentioned in subsection (2) if—
- (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (5) In this section—
- “act of facilitation”—
 - (a) in relation to an offence under section 25 (assisting unlawful immigration), means the act mentioned in subsection (1)(a) of that section;
 - (b) in relation to an offence under section 25A (helping asylum-seeker to enter the UK), means the act of facilitating the arrival (or attempted arrival) in, or entry (or attempted entry) into, the United Kingdom of an individual, as mentioned in subsection (1)(a) of that section;
 - (c) in relation to an offence under section 25B(1) (facilitating breach of deportation order), means the act mentioned in subsection (1)(a) of that section;
 - (d) in relation to an offence under section 25B(3) (assisting entry to UK in breach of an exclusion order), means the act mentioned in subsection (3) (a) of that section;
 - “assisted individual”—
 - (a) in relation to an offence under section 25, means the individual whose breach (or attempted breach) of immigration law is facilitated by the act of facilitation;
 - (b) in relation to an offence under section 25A, means the individual whose arrival (or attempted arrival) in, or entry (or attempted entry) into, the United Kingdom is facilitated by the act of facilitation;
 - (c) in relation to an offence under section 25B(1), means the individual whose breach (or attempted breach) of a deportation order is facilitated by the act of facilitation;
 - (d) in relation to an offence under section 25B(3), means the individual who is assisted to arrive in, enter or remain (or to attempt to arrive in, enter or remain) in the United Kingdom by the act of facilitation;
 - “facilitation offence” means—
 - (a) an offence under section 25 (assisting unlawful immigration),
 - (b) an offence under section 25A (helping asylum-seeker to enter the United Kingdom), or
 - (c) an offence under section 25B (assisting entry to the United Kingdom in breach of deportation or exclusion order) to the extent that the section continues to apply by virtue of regulation 5(7) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 ([S.I. 2020/1309](#));
 - “ship” includes—
 - (a) every description of vessel (including a hovercraft), and

Changes to legislation: Immigration Act 1971, Section 25BA is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) any other structure (whether with or without means of propulsion) constructed or used to carry persons, goods, plant or machinery by water.]

Textual Amendments

- F1** Ss. 25BA, 25BB inserted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), ss. 41(4), 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 21 (with Sch. 2 para. 7)

Changes to legislation:

Immigration Act 1971, Section 25BA is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [2008 c. 4 s. 133\(7\)\(8\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 10(1A)(1B) inserted by [1999 c. 33 Sch. 14 para. 47\(3\)](#)
- s. 24(1)(fa) inserted by [2023 c. 37 s. 10\(2\)](#)
- s. 24C-24F inserted by [2016 c. 19 s. 44\(2\)](#)
- s. 26A(1)(b)(ia) inserted by [2016 c. 19 Sch. 11 para. 25](#)
- s. 27(1)(aa) inserted by [2023 c. 37 s. 10\(3\)\(a\)](#)
- s. 27(1)(ba) inserted by [2023 c. 37 s. 10\(3\)\(b\)](#)
- s. 28CA(1)(bb) substituted for word in s. 28CA(1)(b) by [2016 c. 19 s. 44\(5\)](#)
- Sch. 2 para. 27B(4A) inserted by [2004 c. 19 s. 16](#)
- Sch. 2 para. 26(4) inserted by [2016 c. 19 s. 74\(1\)](#)
- Sch. 2 Pt. 1A inserted by [2016 c. 19 Sch. 13](#)
- Sch. 2 para. 11A inserted by [2023 c. 37 s. 10\(4\)](#)