



# Immigration Act 1971

## 1971 CHAPTER 77

### PART III

#### CRIMINAL PROCEEDINGS

#### **[<sup>F1</sup>25BB Facilitation offences: defences relating to stowaways**

- (1) In proceedings for a facilitation offence brought against a master of a ship, it is a defence for the master to show—
  - (a) that the assisted individual was a stowaway when the act of facilitation took place, and
  - (b) that the master, or a person acting on the master's behalf, reported the presence of the assisted individual on the ship to the Secretary of State or an immigration officer—
    - (i) in a case where the ship was scheduled to go to the United Kingdom, as soon as reasonably practicable after the time when the ship's next scheduled port of call became a port in the United Kingdom, or
    - (ii) in a case where the ship was not scheduled to go to the United Kingdom but the master of the ship decided that the ship needed to go to the United Kingdom (whether for reasons relating to the presence of the assisted individual on board or for other reasons), as soon as reasonably practicable after the master made that decision.
- (2) In proceedings for a facilitation offence, it is a defence for the person charged with the offence to show—
  - (a) that the assisted individual was a stowaway when the act of facilitation took place,
  - (b) that they were acting to ensure the security, general health, welfare or safety of the assisted individual, and
  - (c) that they had reported the presence of the assisted individual to the master of the ship as soon as reasonably practicable.
- (3) A person is taken to have shown a fact mentioned in subsection (1) or (2) if—

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*Changes to legislation: Immigration Act 1971, Section 25BB is up to date with all changes known to be in force on or before 15 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*

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- (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.
- (4) For the purposes of this section, an individual is a stowaway on a ship if—
- (a) they boarded the ship without the knowledge of the master of the ship, and
  - (b) the master was not aware of their presence on the ship when the ship departed from the port where the individual boarded.
- (5) But an individual ceases to be a stowaway if, after the master of the ship has become aware of their presence on the ship, the individual is given permission to leave the ship by the immigration authorities of a country that the ship arrives at (whether or not they do in fact leave the ship there).
- (6) In this section, “act of facilitation”, “assisted individual”, “facilitation offence” and “ship” have the same meanings as in section 25BA.]

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#### **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:**

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**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\(4\)](#)