

**CHAPTER 16
SECTION 1****SEAMEN****ILLEGAL ENTRY ON MERCHANT VESSELS AND THE PROSECUTION OF CREW
MEMBERS****1. CREW MEMBERS**

A crew member who is the subject of a deportation order or previously refused leave to enter and not since given leave to enter or remain, is precluded by Section 8 of the Immigration Act 1971 from taking shore leave without the permission of an immigration officer. A crew member who goes ashore without leave in these circumstances is an illegal entrant and should be dealt with as such. IES should be promptly informed of such action.

2. SEAMEN WHO DESERT IN THE REPUBLIC OF IRELAND

A seaman who has deserted a ship in the Republic of Ireland and who subsequently enters the United Kingdom without leave is also an illegal entrant. Once apprehended, he should normally be removed to the Republic of Ireland after consultation with the Department of Justice in Dublin.

3. ILLEGAL ENTRANTS USING MERCHANT VESSELS

There is increasing evidence that clandestine entry aboard merchant vessels is regularly attempted. This method may become more attractive as coverage of small ports by control agencies becomes centralised and static control points are reduced. Illegal entry of this nature will normally require the complicity of one or more crew members and the possible profit to be made, with a relatively low risk of detection, may be tempting to some seamen.

4. TARGETING LIKELY VESSELS

Experience has shown that illegal entry is often effected on pleasure craft and small coasting vessels. A typical profile ship might sail under a flag of convenience, have a crew of mixed nationalities and carry cargoes at short notice to a variety of small United Kingdom ports. Updated information on profiles can be obtained from the Harwich Maritime Intelligence Unit and ISNIS.

5. LIAISON WITH OTHER AGENCIES

There may often be a connection between illegal immigration and the smuggling of prohibited articles and goods. Ports should seek to establish and maintain close contacts with HM Custom & Excise and the police in their area. Customs Intelligence Officers can provide useful information to assist with targeting and the Police have an interest in crew who may engage in criminal activity or activity which might threaten this country's security. IS Intelligence sources and the European Liaison Unit at Cheriton maintain links with continental police and immigration authorities.

6. BOARDING AND SEARCHING VESSELS

Officers should not normally board vessels alone. When it is proposed to visit, the immigration officer should make every effort to be accompanied by a colleague, police or customs officer or a representative of the ship's agents. Searching of vessels should normally be undertaken in conjunction with HM Customs. There may be benefits from observing a suspect vessel for some time before boarding.

7. HEALTH AND SAFETY CONSIDERATIONS

All dock areas are dangerous and care should be exercised when moving around. High visibility, protective clothing and lifesaving equipment must be worn as appropriate. Footwear should provide protection and good grip. Ladders and gangways should be secured before boarding and great care taken by the boarding officer.

Officers should be aware of the risk of rabies. All vessels entering United Kingdom waters which have a dog on board are required to ensure that the animal is properly secured and not allowed to roam on deck.

Current health and safety advice is that immigration officers should **not** use "personnel baskets" on oil rigs, which require persons to hang on the outside, unless in an emergency.

In all cases, the immigration officer must satisfy himself that the means of access are safe for boarding any vessel. If in any doubt, he should not proceed.

8. ACTION UPON DETECTION OF ILLEGAL ENTRANTS

The police should be involved as early as possible to assist with the apprehension of suspected illegal entrants and facilitators. Reference should be made to a chief immigration officer at an early stage.

9. PROSECUTION OF CREW MEMBERS

When a crew member is to be formally prosecuted, it will not normally be necessary for him to be examined by an immigration officer. It should be remembered that whenever a seaman is examined under the Immigration Act, this **must** be followed by a grant or

refusal of leave to enter, or the issue of form IS 81 requiring further examination. The latter course will be appropriate in prosecution cases pending resolution.

9.1. **Action prior to prosecution**

The prosecuting authority should be advised of the immigration officer's powers and that further immigration action may be necessary when the result of the case is known. Immigration officers should ensure that the progress of the case is carefully monitored. The prosecution should also be advised if form IS 81 has already been served and that action will follow when the result of the case is known.

9.2. **Action when the seaman is acquitted**

If the seaman is acquitted and the ship is still in port, no action is necessary if the seaman has not been examined by the immigration officer. If the ship has sailed coastwise, the owners/agents should be asked to make arrangements for him to rejoin. If the ship has sailed for foreign and the immigration officer is satisfied he will comply with any limited leave, leave to enter may be granted in line with the owners/agents' arrangements. If the owners/agents make difficulties over such arrangements, the seaman may be removed under Paragraph 13 of Schedule 2 and directions given to the agents accordingly.

If form IS 81 has been served, examination should be completed and leave to enter granted or refused as appropriate. The two months' time limit in respect of serving notice of intention to remove applies in refusal cases where removal will be at the carrier's expense (see Paragraph 8(2) of Schedule 2 to the Immigration Act 1971 as amended by the Immigration Act 1988).

9.3. **Action when the seaman is convicted**

Where the seaman is convicted, but has not been examined by the immigration officer and the ship is still in port, no action is necessary in minor cases. If the matter warrants refusal of leave to enter, but no imprisonment is imposed, the seaman should be refused leave to enter and replaced on board. If the seaman is committed to prison, he should not be refused leave to enter but dealt with under Paragraph 13 of Schedule 2 (see paragraph 10 of the main part of this section, above). An amended form IS 109E should be sent to the agents.

Whenever a seaman's ship has left port by the time of conviction, he should be removed under paragraph 13 of Schedule 2, but in minor cases leave to enter for repatriation or transfer may be appropriate.

If form IS 81 has been served, the same considerations apply as in paragraph 9.2. above.