

# Immigration Act 2016

## Factsheet – Border Security (Sections 74-76)

### What are we going to do?

- Crack down on those who exploit illegal migrants by seeking to smuggle them into the UK.
- Ensure all airlines, and airport operators always present arriving passengers to immigration controls.
- Streamline the process for ensuring individuals who have been banned by the EU or UN from international travel cannot enter the UK.

### How are we going to do it?

- Give Border Force new powers to target vessels in UK territorial waters suspected of involvement in facilitating illegal entry into the UK.
- Include provisions in the Act to allow us to introduce a new civil penalty for airlines or airport operators who fail to direct passengers to immigration control.
- Ensure international travel bans are automatically applied without the need to update secondary legislation.

### Immigration Minister James Brokenshire said:

“This government makes no apologies for refusing people access to the UK if we believe their presence is not conducive to the public good.

“Every passenger arriving at any UK airport must be directed to immigration control. It is a criminal offence for an airline or airport operator to fail in this duty.

“Security at the border is our priority and we need our officers to have powers to stop these criminal gangs from attempting to smuggle people into Britain.”

## Background

### Maritime Powers

- Border Force operates a fleet of cutters to enforce revenue and customs matters, in particular to lead the fight against the importation of controlled substances. Officers on board cannot exercise immigration powers in UK territorial waters so cannot intervene when they identify vessels which they suspect to be involved in facilitating illegal migration.
- The Immigration Act will provide Border Force Officers with new powers to:
  - stop, board, divert and detain a vessel where there are reasonable grounds to suspect that it is being used to facilitate the breach of immigration law or is being used in connection with such facilitation;
  - search a ship and anyone and anything on the ship to obtain information or evidence of the facilitation offence;

- arrest of any person reasonably suspected of being guilty of an offence of facilitation and seize relevant information or evidence;
- use reasonable force in the exercise of any of these powers or functions.

### **Misdirected passengers**

- In 2014 there were 117 million passenger arrivals in the UK.
- When passengers arrive on international commercial flights they must present at immigration control. Carriers and airport operators who fail to comply with their legal obligations in this regard may be liable for a criminal offence.
- In 2014, just under 1,000 arriving passengers were not brought to the immigration control because of airport operator or carrier error. This is usually because the wrong doors have been opened at the arrival gate or simply because the airline or airport operator sent the passengers to the wrong place.
- The Immigration Act will create a civil penalty scheme to incentivise carriers and airport operators to invest in better passenger management processes. The detail of the scheme will be in secondary legislation and codes of practice, including the maximum penalty that can be imposed.

### **Travel bans**

- Travel bans restrict the movement of named individuals associated with regimes or groups, including terrorist groups, whose behaviour is considered unacceptable by the international community.
- There are just over 1300 individuals currently subject to an international travel ban.
- The decision to impose a travel ban is made either by the United Nations' Security Council or by the Council of the European Union. To implement travel bans in the UK, secondary legislation is laid before Parliament to amend the Immigration (Designation of Travel Bans) Order 2000.
- The Immigration Act will remove the need to update this secondary legislation. Instead international travel bans against non EU nationals will take effect in the UK automatically.

### **Key Questions and Answers**

- **What happens at the moment when Border Force cutters encounter vessels in UK territorial waters that they think are carrying illegal migrants?**  
Border Force officers have no powers to act so all they can do is pass the information to immigration officers on land and to try and monitor the vessel's movements while it remains at sea. This is why we are legislating.
- **If it's already a criminal offence not to direct arriving passengers to the immigration control, why do you need a new civil penalty?**

This isn't currently a problem of deliberate conspiracy to circumvent immigration control – some carriers and airport operators are simply not investing enough to build failsafe processes. A civil penalty is a more effective and proportionate sanction that will lead to better compliance. The criminal offence remains for deliberate or systematic non-compliance.

➤ **Can people subject to international travel bans enter the UK before secondary legislation is updated?**

When the UN or the EU list an individual under a travel ban our computer systems are updated so if that person applies for an entry clearance they will be refused, or if they arrive at a UK port they will be stopped. They cannot be refused entry as an “excluded person” until the secondary legislation is updated but in the meantime they will fall for refusal on conducive grounds under the Immigration Rules and any leave or entry clearance that a person already holds will need to be cancelled. The new automatic provision will make the legal process simpler.

Home Office

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