



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART II

CARRIERS' LIABILITY

Passengers without proper documents

40 Charges in respect of passengers without proper documents.

- (1) This section applies if a person requiring leave to enter the United Kingdom arrives in the United Kingdom by ship, aircraft, road passenger vehicle or train and, on being required to do so by an immigration officer, fails to produce—
 - (a) a valid passport with photograph or some other document satisfactorily establishing his identity and nationality or citizenship; and
 - (b) if he requires a visa, a valid visa of the required kind.
- (2) The Secretary of State may charge the owner of the ship, aircraft or vehicle or the train operator, in respect of that person, the sum of £2,000 or such other sum as may be prescribed.
- (3) The charge is payable to the Secretary of State on demand.
- (4) No charge is payable in respect of any person who is shown by the owner or train operator to have produced the required document or documents to him or his representative when embarking—
 - (a) on the ship or aircraft for the voyage or flight to the United Kingdom; or
 - (b) on the vehicle or train for the journey to the United Kingdom.
- (5) No charge is payable by a train operator, or by the owner of a road passenger vehicle, in respect of a person ("A"), if he shows that—
 - (a) neither he nor his representative was permitted, under the law applicable to the place where A embarked on the journey to the United Kingdom, to require A to produce to him when embarking the required document or documents;

Status: Point in time view as at 06/12/1999. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration and Asylum Act 1999, Cross Heading: Passengers without proper documents is up to date with all changes known to be in force on or before 23 June 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)

- (b) he had in place satisfactory arrangements (including, where appropriate, arrangements with other persons) designed to ensure that he did not carry passengers who did not, or might not, have documents of the required kind;
 - (c) all such steps as were practicable were taken in accordance with the arrangements to establish whether A had the required document or documents; and
 - (d) all such steps as were practicable were taken in accordance with the arrangements to prevent A's arrival in the United Kingdom where—
 - (i) A refused to produce the required document or documents to a person acting in accordance with the arrangements; or
 - (ii) for other reasons it appeared to that person that A did not, or might not, have the required document or documents.
- (6) For the purposes of subsections (4) and (5), a document—
- (a) is to be regarded as being what it purports to be unless its falsity is reasonably apparent; and
 - (b) is to be regarded as relating to the person producing it unless it is reasonably apparent that it relates to another person.
- (7) Subsection (8) applies if—
- (a) a person arrives in the United Kingdom in circumstances in which the Secretary of State is entitled to impose on the owner of a road passenger vehicle a charge under this section in respect of that person; and
 - (b) the vehicle arrived in the United Kingdom in a ship or aircraft.
- (8) The Secretary of State may impose a charge in respect of the arrival of the vehicle, or a charge in respect of the arrival of the ship or aircraft, but not in respect of both.
- (9) The Secretary of State may by order provide that this section is not to apply in relation to passengers arriving in the United Kingdom on a train who embarked on the journey to the United Kingdom—
- (a) in a country specified in the order; or
 - (b) at places so specified within a country so specified.
- (10) The Secretary of State may make an order under subsection (9) only if he is satisfied that there is in force between the United Kingdom and the country concerned an agreement providing for the operation of United Kingdom immigration control in that country or for the checking of passports and visas there.
- (11) “Road passenger vehicle” means a vehicle—
- (a) which is adapted to carry more than eight passengers and is being used for carrying passengers for hire or reward; or
 - (b) which is not so adapted but is being used for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers.
- (12) For the purposes of this section a person requires a visa if—
- (a) under the immigration rules he requires a visa for entry into the United Kingdom; or
 - (b) as a result of section 41 he requires a visa for passing through the United Kingdom.
- (13) “Representative”, in relation to a person, means an employee or agent of his.

Status: Point in time view as at 06/12/1999. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration and Asylum Act 1999, Cross Heading: Passengers without proper documents is up to date with all changes known to be in force on or before 23 June 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)

Modifications etc. (not altering text)

C1 S. 40 extended (2.10.2000) by S.I. 2000/2326, regs. 7, 9

Commencement Information

II S. 40 partly in force; s. 40 not in force at Royal Assent see s. 170(4); s. 40(9)(10) in force at 6.12.1999 by S.I. 1999/3190, art. 2, Sch.

VALID FROM 14/11/2002

[^{F1}40A Notification and objection

- (1) If the Secretary of State decides to charge a person under section 40, the Secretary of State must notify the person of his decision.
- (2) A notice under subsection (1)(a “charge notice”) must—
 - (a) state the Secretary of State’s reasons for deciding to charge the person,
 - (b) state the amount of the charge,
 - (c) specify the date before which, and the manner in which, the charge must be paid,
 - (d) include an explanation of the steps that the person may take if he objects to the charge, and
 - (e) include an explanation of the steps that the Secretary of State may take under this Part to recover any unpaid charge.
- (3) Where a person on whom a charge notice is served objects to the imposition of the charge on him, he may give a notice of objection to the Secretary of State.
- (4) A notice of objection must—
 - (a) be in writing,
 - (b) give the objector’s reasons, and
 - (c) be given before the end of such period as may be prescribed.
- (5) Where the Secretary of State receives a notice of objection to a charge in accordance with this section, he shall—
 - (a) consider it, and
 - (b) determine whether or not to cancel the charge.
- (6) Where the Secretary of State considers a notice of objection, he shall inform the objector of his decision before the end of—
 - (a) such period as may be prescribed, or
 - (b) such longer period as he may agree with the objector.
- (7) Any sum payable to the Secretary of State as a charge under section 40 may be recovered by the Secretary of State as a debt due to him.
- (8) In proceedings for enforcement of a charge under subsection (7) no question may be raised as to the validity of the charge.

Status: Point in time view as at 06/12/1999. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: *Immigration and Asylum Act 1999, Cross Heading: Passengers without proper documents is up to date with all changes known to be in force on or before 23 June 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)*

(9) Subsections (12) and (13) of section 35 shall have effect for the purpose of this section as they have effect for the purpose of section 35(1), (7) and (10).]

Textual Amendments

F1 Ss. 40-40B substituted (14.11.2002 for certain purposes and otherwise 8.12.2002) for s. 40 by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 125, Sch. 8 para. 13](#) (with s. 159); S.I. 2002/2811, [art. 2](#), Sch.

Modifications etc. (not altering text)

C2 [Ss. 40-43](#): power to apply (with modifications) or amend conferred (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 124\(6\)\(7\), 162\(1\)](#) (with s. 159)

VALID FROM 14/11/2002

[^{F2}40B Appeal

- (1) A person may appeal to the court against a decision to charge him under section 40.
- (2) On an appeal under this section the court may—
 - (a) allow the appeal and cancel the charge, or
 - (b) dismiss the appeal.
- (3) An appeal under this section—
 - (a) shall be a re-hearing of the Secretary of State’s decision to impose a charge, and
 - (b) may be determined having regard to matters of which the Secretary of State was unaware.
- (4) Subsection (3)(a) has effect despite any provision of Civil Procedure Rules.
- (5) An appeal may be brought by a person under this section against a decision to charge him whether or not he has given notice of objection under section 40A(3).]

Textual Amendments

F2 Ss. 40-40B substituted (14.11.2002 for certain purposes and otherwise 8.12.2002) for s. 40 by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), s. 125, Sch. 8 para. 13](#) (with s. 159); S.I. 2002/2811, [art. 2](#), Sch.

Modifications etc. (not altering text)

C3 [Ss. 40-43](#): power to apply (with modifications) or amend conferred (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 124\(6\)\(7\), 162\(1\)](#) (with s. 159)

Status: Point in time view as at 06/12/1999. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration and Asylum Act 1999, Cross Heading: Passengers without proper documents is up to date with all changes known to be in force on or before 23 June 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)

VALID FROM 08/12/2002

41 Visas for transit passengers.

- (1) The Secretary of State may by order require transit passengers to hold a transit visa.
- (2) “Transit passengers” means persons of any description specified in the order who on arrival in the United Kingdom pass through to another country without entering the United Kingdom; and “transit visa” means a visa for that purpose.
- (3) The order—
 - (a) may specify a description of persons by reference to nationality, citizenship, origin or other connection with any particular country but not by reference to race, colour or religion;
 - (b) may not provide for the requirement imposed by the order to apply to any person who under the 1971 Act has the right of abode in the United Kingdom;
 - (c) may provide for any category of persons of a description specified in the order to be exempt from the requirement imposed by the order;
 - (d) may make provision about the method of application for visas required by the order.

Modifications etc. (not altering text)

- C4** [Ss. 40-43](#): power to apply (with modifications) or amend conferred (prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 124\(6\)\(7\), 162\(1\)](#) (with s. 159)

42 Power to detain vehicles etc. in connection with charges under section 40.

- (1) A senior officer may, pending payment of any charge imposed under section 40, detain—
 - (a) the transporter in which the person in respect of whom the charge was imposed was carried; or
 - (b) any other transporter used (on any route) in the course of providing a service of carriage of passengers by sea, air or land by the person on whom the charge was imposed.
- (2) If a transporter is detained under subsection (1) it may continue to be detained pending payment of any connected expenses.
- (3) The court may release the transporter if it considers that—
 - (a) satisfactory security has been tendered in place of the transporter for the payment of the charge alleged to be due and connected expenses;
 - (b) there is no significant risk that the charge and any connected expenses will not be paid; or
 - (c) there is a significant doubt as to whether the charge is payable and the applicant has a compelling need to have the transporter released.
- (4) If the court has not ordered the release of the transporter, the Secretary of State may sell it if the charge in question and connected expenses are not paid before the end of the period of 84 days beginning with the date on which the detention began.

Status: Point in time view as at 06/12/1999. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration and Asylum Act 1999, Cross Heading: Passengers without proper documents is up to date with all changes known to be in force on or before 23 June 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)

- (5) The detention of a transporter under this section is lawful even though it is subsequently established that the imposition of the charge on which the detention was based was ill-founded.
- (6) But subsection (5) does not apply if the Secretary of State was acting unreasonably in imposing the charge.
- (7) “Connected expenses” means expenses reasonably incurred by the Secretary of State in connection with the detention.
- (8) Schedule 1 applies to the sale of transporters under this section.

Commencement Information

- I2** S. 42 partly in force; s. 42 not in force at Royal Assent see s. 170(4); s. 42(8) in force for certain purposes at 6.12.1999 by S.I. 1999/3190, art. 2, Sch.

Status:

Point in time view as at 06/12/1999. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:

Immigration and Asylum Act 1999, Cross Heading: Passengers without proper documents is up to date with all changes known to be in force on or before 23 June 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.