



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART II

CARRIERS' LIABILITY

Passengers without proper documents

[^{F1}40 Charge in respect of passenger without proper documents

- (1) This section applies if an individual requiring leave to enter the United Kingdom arrives in the United Kingdom by ship or aircraft and, on being required to do so by an immigration officer, fails to produce—
 - (a) an immigration document which is in force and which satisfactorily establishes his identity and his nationality or citizenship, and
 - (b) if the individual requires a visa, a visa of the required kind.
- (2) The Secretary of State may charge the owner of the ship or aircraft, in respect of the individual, the sum of £2,000.
- (3) The charge shall be payable to the Secretary of State on demand.
- (4) No charge shall be payable in respect of any individual who is shown by the owner to have produced the required document or documents to the owner or his employee or agent when embarking on the ship or aircraft for the voyage or flight to the United Kingdom.
- (5) For the purpose of subsection (4) an owner shall be entitled to regard a document as—
 - (a) being what it purports to be unless its falsity is reasonably apparent, and
 - (b) relating to the individual producing it unless it is reasonably apparent that it does not relate to him.
- (6) For the purposes of this section an individual requires a visa if—
 - (a) under the immigration rules he requires a visa for entry into the United Kingdom, or

Status: Point in time view as at 08/12/2002.

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- (b) as a result of section 41 he requires a visa for passing through the United Kingdom.
- (7) The Secretary of State may by order amend this section for the purpose of applying it in relation to an individual who—
 - (a) requires leave to enter the United Kingdom, and
 - (b) arrives in the United Kingdom by train.
- (8) An order under subsection (7) may provide for the application of this section—
 - (a) except in cases of a specified kind;
 - (b) subject to a specified defence.
- (9) In this section “immigration document” means—
 - (a) a passport, and
 - (b) a document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport.
- (10) The Secretary of State may by order substitute a sum for the sum in subsection (2).]

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)

- C1** [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)

[^{F2}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.

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- (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.
- (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

- 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)

- 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)

[^{F3}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).]

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Textual Amendments

- F3** 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)

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.

F4

Textual Amendments

- F4** S. 42 repealed (8.12.2002) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 125, 161, [Sch. 8 para. 13](#), [Sch. 9](#) (with s. 159); S.I. 2002/2811, [art. 2](#), Sch.

Status:

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Changes to legislation:

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