



Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

2004 CHAPTER 19

Offences

^[F15] **Section 4: supplemental**

(1)

^[F2](2) This subsection applies to—

- ^[F6](g) a person who at the time of the offence was habitually resident in Scotland, and
- (h) a body incorporated under the law of a part of the United Kingdom.]

^[F7](2A) A person may be prosecuted, tried and punished for any offence to which section 4 applies—

- (a) in any sheriff court district in which the person is apprehended or is in custody, or
- (b) in such sheriff court district as the Lord Advocate may determine,

as if the offence had been committed in that district (and the offence is, for all purposes incidental to or consequential on the trial or punishment, to be deemed to have been committed in that district).

(2B) In subsection (2A), “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (c.46) (interpretation).]

^[F8]^[F9](3) ^[F10]In section 4(4)(a)]^[F10]In section 4— “country” includes any territory or other part of the world,]

^[F11]“the Human Rights Convention” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950.]

^[F12]“UK national” means—

- (a) a British citizen,

Status: Point in time view as at 31/07/2015. This version of this provision has been superseded.

Changes to legislation: *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 5 is up to date with all changes known to be in force on or before 20 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) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has the right of abode in the United Kingdom, or
 - (c) a person who is a British overseas territories citizen by virtue of a connection with Gibraltar.]]
- [^{F9}(4) Sections 25C and 25D of the Immigration Act 1971 (c. 77) (forfeiture or detention of vehicle, &c.) shall apply in relation to an offence under section 4 of this Act as they apply in relation to an offence under section 25 of that Act.]
- [^{F9}(5) At the end of section 25C(9)(b), (10)(b) and (11) of that Act add “or section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).”]]
- [^{F9}(6) After paragraph 2(n) of Schedule 4 to the Criminal Justice and Court Services Act 2000 (c. 43) (offence against child) insert—
- “(o) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation). ”]
- [^{F9}(7) At the end of paragraph 4 of Schedule 2 to the Proceeds of Crime Act 2002 (c. 29) (lifestyle offences: England and Wales: people trafficking) add—
- “(3) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (exploitation). ”]
- (8) At the end of paragraph 4 of Schedule 4 to the Proceeds of Crime Act 2002 (lifestyle offences: Scotland: people trafficking) add “or under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (exploitation)”.
- [^{F13}(9) At the end of paragraph 4 of Schedule 5 to the Proceeds of Crime Act 2002 (lifestyle offences: Northern Ireland: people trafficking) add—
- “(3) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (exploitation).”
- (10) After paragraph 2(l) of the Schedule to the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (S.I. 2003/417 (N.I. 4)) (offence against child) insert—
- “(m) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).”]
- [^{F14}(11) [^{F15}In so far as section 4 extends to England and Wales,] subsection (5)(b) shall, until the commencement of section 154 of the Criminal Justice Act 2003 (c. 44) (increased limit on magistrates' power of imprisonment), have effect as if the reference to twelve months were a reference to six months.]
- [^{F16}(12) In so far as section 4 extends to Scotland, subsection (5)(b) shall have effect as if the reference to twelve months were a reference to six months.]
- [^{F17}[^{F16}(13) In so far as section 4 extends to Northern Ireland, subsection (5)(b) shall have effect as if the reference to twelve months were a reference to six months.]]]

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Textual Amendments

- F1** S. 5(1) repealed (N.I.) (26.4.2013) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), s. 15(1), [Sch. 4 Pt. 2](#)
- F2** S. 5(1) substituted for s. 5(1)(2) (E.W.N.I.) (31.1.2008) by [UK Borders Act 2007 \(c. 30\)](#), [ss. 31\(2\)](#), [59\(2\)](#); [S.I. 2008/99](#), [art. 2\(l\)](#)
- F3** Words in s. 5(1) substituted (S.) (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 46\(3\)\(a\)](#), [206\(1\)](#); [S.S.I. 2011/178](#), [art. 2](#), [sch.](#)
- F4** S. 5(1) repealed (E.W.) (6.4.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [ss. 110\(5\)](#), [120](#), [Sch. 10 Pt. 9](#) (with s. 97); [S.I. 2013/470](#), [art. 2\(b\)](#) (with arts. 3(a)4-8)
- F5** Word in s. 5(2) repealed (S.) (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 46\(3\)\(b\)\(i\)](#), [206\(1\)](#); [S.S.I. 2011/178](#), [art. 2](#), [sch.](#)
- F6** S. 5(2)(g)(h) inserted (S.) (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 46\(3\)\(b\)\(ii\)](#), [206\(1\)](#); [S.S.I. 2011/178](#), [art. 2](#), [sch.](#)
- F7** S. 5(2A)(2B) inserted (S) (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 46\(3\)\(c\)](#), [206\(1\)](#); [S.S.I. 2011/178](#), [art. 2](#), [sch.](#)
- F8** S. 5(3)-(5) repealed (N.I.) (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2\)](#), s. 28(2), [Sch. 5](#)
- F9** S. 5(3)-(7) omitted (E.W.) (31.7.2015) by virtue of [Modern Slavery Act 2015 \(c. 30\)](#), s. 61(1), [Sch. 5 para. 6\(3\)](#); [S.I. 2015/1476](#), [reg. 2\(j\)](#) (with reg. 3)
- F10** Words in s. 5(3) substituted (E.W.) (6.4.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [ss. 110\(6\)\(a\)](#), [120](#) (with s. 97); [S.I. 2013/470](#), [art. 2\(b\)](#) (with arts. 3(a)4-8)
- F11** S. 5(3) text amended (E.W.) (6.4.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [ss. 110\(6\)\(b\)](#), [120](#) (with s. 97); [S.I. 2013/470](#), [art. 2\(b\)](#) (with arts. 3(a)4-8)
- F12** Words in s. 5(3) inserted (E.W.) (6.4.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [ss. 110\(6\)\(c\)](#), [120](#) (with s. 97); [S.I. 2013/470](#), [art. 2\(b\)](#) (with arts. 3(a)4-8)
- F13** S. 5(9)(10) repealed (N.I.) (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2\)](#), s. 28(2), [Sch. 5](#)
- F14** S. 5(11) omitted (E.W.) (31.7.2015) by virtue of [Modern Slavery Act 2015 \(c. 30\)](#), s. 61(1), [Sch. 5 para. 6\(3\)](#); [S.I. 2015/1476](#), [reg. 2\(j\)](#) (with reg. 3)
- F15** Words in s. 5(11) repealed (E.W.) (6.4.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 141\(2\)\(a\)](#), [Sch. 10 Pt. 9](#) (with s. 97); [S.I. 2013/470](#), [art. 2\(d\)\(f\)](#) (with arts. 5-8)
- F16** S. 5(12)(13) repealed (E.W.) (6.4.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 141\(2\)\(b\)](#), [Sch. 10 Pt. 9](#) (with s. 97); [S.I. 2013/470](#), [art. 2\(d\)\(f\)](#) (with arts. 5-8)
- F17** S. 5(13) repealed (N.I.) (26.4.2013) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), s. 15(1), [Sch. 4 Pt. 2](#)

Commencement Information

- I1** S. 5 in force at 1.12.2004 for E.W.N.I. by [S.I. 2004/2999](#), [art. 2](#), [Sch.](#)
- I2** S. 5 in force at 1.12.2004 for S. by [S.S.I. 2004/494](#), unnumbered provision

Status:

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