

**Changes to legislation:** Nationality and Borders Act 2022 is up to date with all changes known to be in force on or before 31 May 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) View outstanding changes

## SCHEDULES

### SCHEDULE 1

Section 9

#### WAIVER OF REQUIREMENT OF PRESENCE IN UK ETC

##### *Amendments to the British Nationality Act 1981*

1 The British Nationality Act 1981 is amended as follows.

##### **Commencement Information**

- I1** Sch. 1 para. 1 not in force at Royal Assent, see **s. 87(1)**  
**I2** Sch. 1 para. 1 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

2 (1) Section 4 (acquisition by registration: British overseas territories citizens etc) is amended as follows.

(2) In subsection (4)—

(a) before paragraph (a) insert—

“(za) treat the person to whom the application relates as fulfilling the first requirement specified in subsection (2)(a) although the person was not in the United Kingdom at the beginning of the period there mentioned;”;

(b) in paragraph (a), for “requirement specified in subsection (2)(a) or” substitute “second requirement specified in subsection (2)(a) or the requirement specified in”.

(3) After subsection (4) insert—

“(4A) Subsection (4B) applies where, on an application for registration as a British citizen made by a person to whom this section applies, the applicant has indefinite leave to enter or remain in the United Kingdom.

(4B) The Secretary of State may for the purposes of subsection (2) treat the applicant as fulfilling the requirement specified in subsection (2)(d), without enquiring into whether or not the applicant was in the United Kingdom in breach of the immigration laws in the period there mentioned.

(4C) The reference in subsection (4A) to having indefinite leave to enter or remain is to be construed in accordance with the Immigration Act 1971.”

##### **Commencement Information**

- I3** Sch. 1 para. 2 not in force at Royal Assent, see **s. 87(1)**  
**I4** Sch. 1 para. 2 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

3 (1) Schedule 1 (requirements for naturalisation) is amended as follows.

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- (2) In paragraph 2 (naturalisation as a British citizen under section 6(1): waiver of requirements in special circumstances)—
- (a) in sub-paragraph (1), before paragraph (a) insert—
    - “(za) treat the applicant as fulfilling the first requirement specified in paragraph 1(2)(a) although the applicant was not in the United Kingdom at the beginning of the period there mentioned;”;
  - (b) in that sub-paragraph, in paragraph (a), for “requirement specified in paragraph 1(2)(a) or” substitute “second requirement specified in paragraph 1(2)(a) or the requirement specified in”;
  - (c) after that sub-paragraph insert—
    - “(1A) Sub-paragraph (1B) applies where the applicant has indefinite leave to enter or remain in the United Kingdom.
    - (1B) The Secretary of State may for the purposes of paragraph 1 treat the applicant as fulfilling the requirement specified in paragraph 1(2)(d), without enquiring into whether or not the applicant was in the United Kingdom in breach of the immigration laws in the period there mentioned.
    - (1C) The reference in sub-paragraph (1A) to having indefinite leave to enter or remain is to be construed in accordance with the Immigration Act 1971.”;
  - (d) omit sub-paragraphs (2) and (3).
- (3) In paragraph 4, in paragraph (a)—
- (a) for “the reference” substitute “the references”;
  - (b) for “a reference” substitute “references”.
- (4) In paragraph 6 (naturalisation as a British overseas territories citizen under section 18(1): waiver of requirements in special circumstances)—
- (a) the existing text becomes sub-paragraph (1);
  - (b) before paragraph (a) of that sub-paragraph insert—
    - “(za) treat the applicant as fulfilling the first requirement specified in paragraph 5(2)(a) although the applicant was not in the relevant territory at the beginning of the period there mentioned;”;
  - (c) in paragraph (a) of that sub-paragraph, for “requirement specified in paragraph 5(2)(a) or” substitute “second requirement specified in paragraph 5(2)(a) or the requirement specified in”;
  - (d) after that sub-paragraph insert—
    - “(2) Sub-paragraph (3) applies where the applicant has indefinite leave to enter or remain in the relevant territory.
    - (3) The Secretary of State may for the purposes of paragraph 5 treat the applicant as fulfilling the requirement specified in paragraph 5(2)(d), without enquiring into whether or not the applicant was in the relevant territory in breach of the immigration laws in the period there mentioned.

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(4) The reference in sub-paragraph (2) to having indefinite leave to enter or remain is to be construed as a reference to any status formally granted under the immigration laws in force in the relevant territory which is broadly equivalent to the status of having indefinite leave to enter or remain under the Immigration Act 1971.”

(5) In paragraph 8, in paragraph (a)—

- (a) for “the reference” substitute “the references”;
- (b) for “a reference” substitute “references”.

#### Commencement Information

- I5** Sch. 1 para. 3 not in force at Royal Assent, see **s. 87(1)**
- I6** Sch. 1 para. 3(1)-(3)(4)(a)-(c)(5) in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

#### Commencement Information

- I1** Sch. 1 para. 1 not in force at Royal Assent, see **s. 87(1)**
- I2** Sch. 1 para. 1 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)
- I3** Sch. 1 para. 2 not in force at Royal Assent, see **s. 87(1)**
- I4** Sch. 1 para. 2 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)
- I5** Sch. 1 para. 3 not in force at Royal Assent, see **s. 87(1)**
- I6** Sch. 1 para. 3(1)-(3)(4)(a)-(c)(5) in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

#### Consequential amendment

- 4 In section 1 of the Citizenship (Armed Forces) Act 2014 (applications for citizenship by members or former members of armed forces), omit subsection (3).

#### Commencement Information

- I7** Sch. 1 para. 4 not in force at Royal Assent, see **s. 87(1)**
- I8** Sch. 1 para. 4 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 8** (with Sch. 2 para. 3)

## SCHEDULE 2

Section 10(4)

### DEPRIVATION OF CITIZENSHIP WITHOUT NOTICE: JUDICIAL OVERSIGHT

#### Commencement Information

- I9** Sch. 2 not in force at Royal Assent, see **s. 87(1)**
- I10** Sch. 2 in force at 10.5.2023 by S.I. 2023/450, **reg. 2(b)**

This is the Schedule to be inserted after Schedule 4 to the British Nationality Act 1981—

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“SCHEDULE 4A

Section 40(5E)

DEPRIVATION OF CITIZENSHIP WITHOUT NOTICE: JUDICIAL OVERSIGHT

**Deprivation without notice: application to Special Immigration Appeals Commission**

- 1 (1) If the Secretary of State proposes to make a conducive grounds deprivation order without notice, the Secretary of State may apply to the Special Immigration Appeals Commission under this paragraph.
- (2) If the Secretary of State makes a conducive grounds deprivation order without notice, the Secretary of State must apply to the Special Immigration Appeals Commission under this paragraph within the period of seven days beginning with the day on which the order is made (unless an application has already been made under sub-paragraph (1)).
- (3) The function of the Commission on an application under this paragraph is to determine whether, in respect of each condition in section 40(5A) on which the Secretary of State relies, the Secretary of State’s view is obviously flawed.
- (4) In determining that question, the Commission must apply the principles that would be applicable on an application for judicial review.
- (5) If the Commission determines that the Secretary of State’s view is obviously flawed in respect of each condition in section 40(5A) on which the Secretary of State relies—
  - (a) if the order in question has not been made, section 40(5) applies in relation to the order (notwithstanding section 40(5A));
  - (b) if the order has been made, the Secretary of State must, within the period of 14 days beginning with the day on which the Commission made the determination—
    - (i) give late notice in respect of the order,
    - (ii) revoke the order, or
    - (iii) make an application under sub-paragraph (6).
- (6) The Secretary of State may (at any time) make an application to the Special Immigration Appeals Commission for fresh consideration of a decision the Secretary of State has made under section 40(5A) where—
  - (a) in the opinion of the Secretary of State, circumstances have changed materially since the determination mentioned in sub-paragraph (5), or
  - (b) the Secretary of State wishes to provide further evidence to the Commission.

Sub-paragraphs (3) to (5) apply to an application under this sub-paragraph.

**Deprivation of citizenship without notice: review**

- 2 (1) Sub-paragraphs (2) to (5) apply if—
  - (a) the Secretary of State makes a conducive grounds deprivation order without notice, and
  - (b) the Special Immigration Appeals Commission has not made the determination mentioned in paragraph 1(5) (Secretary of State’s decision obviously flawed).

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- (2) The Secretary of State must, at least once in every review period, review the circumstances of the person in respect of whom the order was made (so far as known) and decide whether to give late notice in respect of the order.
- (3) On such a review, the Secretary of State must decide to give late notice to the person unless it appears to the Secretary of State that any of the conditions in section 40(5A) is met (reading any reference in those provisions to notice under section 40(5) as a reference to late notice).
- (4) If the Secretary of State decides at any point to give late notice in respect of the order—
  - (a) the Secretary of State must give the notice as soon as reasonably practicable, and
  - (b) once the notice is given, sub-paragraph (2) ceases to apply in relation to the person.
- (5) If on the expiry of the final review period the Secretary of State has not given, or has not decided to give, late notice in respect of the order, the Secretary of State must make an application to the Special Immigration Appeals Commission within the period of seven days beginning with the day after the final day of that review period.
- (6) Sub-paragraphs (3) to (6) of paragraph 1 (except sub-paragraph (5)(a)) apply for the purposes of an application under sub-paragraph (5) as they apply for the purposes of an application under that paragraph.
- (7) For the purposes of this paragraph, each of the following is a “review period”—
  - (a) the period of four months beginning with the day after the day on which the Special Immigration Appeals Commission first determined an application in relation to the order under paragraph 1, and
  - (b) each of the next five successive periods of four months.

### Interpretation

- 3 (1) In this Schedule, references to making a conducive grounds deprivation order without notice are to making an order under section 40(2) without giving notice under subsection (5) of that section (in reliance on subsection (5A) of that section).
- (2) In this Schedule, “late notice”, in respect of an order under section 40(5), means written notice to the person in respect of whom the order was made specifying—
  - (a) that the Secretary of State has made the order,
  - (b) the reasons for the order, and
  - (c) the person’s right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997.”

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PROSPECTIVE

## SCHEDULE 3

Section 23

### EXPEDITED APPEALS WHERE PRIORITY REMOVAL NOTICE SERVED: CONSEQUENTIAL AMENDMENTS

- 1 The Nationality, Immigration and Asylum Act 2002 is amended in accordance with paragraphs 2 to 6.

**Commencement Information**

**I11** Sch. 3 para. 1 not in force at Royal Assent, see [s. 87\(1\)](#)

- 2 In section 85 (matters to be considered on appeal)—
- (a) in subsections (1), (2) and (4), after “the Tribunal” insert “or the Upper Tribunal”;
  - (b) in subsection (5)—
    - (i) after “the Tribunal”, in the first place it appears, insert “or the Upper Tribunal”;
    - (ii) for “the Tribunal”, in the second place it appears, substitute “the tribunal concerned”.

**Commencement Information**

**I12** Sch. 3 para. 2 not in force at Royal Assent, see [s. 87\(1\)](#)

- 3 In section 86 (determination of appeal), in subsection (2), after “the Tribunal” insert “or the Upper Tribunal”.

**Commencement Information**

**I13** Sch. 3 para. 3 not in force at Royal Assent, see [s. 87\(1\)](#)

- 4 In section 106 (tribunal procedure rules), in subsections (3) and (4), after “the Tribunal” insert “or the Upper Tribunal”.

**Commencement Information**

**I14** Sch. 3 para. 4 not in force at Royal Assent, see [s. 87\(1\)](#)

- 5 In section 107 (practice directions)—
- (a) before subsection (3) insert—
    - “(2A) Subsection (3) applies to—
    - (a) proceedings under section 82 in the Tribunal or proceedings in the Upper Tribunal arising out of such proceedings;

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- (b) proceedings under section 82 in the Upper Tribunal (see section 82A and section 24 of the Nationality and Borders Act 2022).”;
- (b) in subsection (3), for the words from “under section 82” to “such proceedings” substitute “to which this subsection applies”.

**Commencement Information**

**I15** Sch. 3 para. 5 not in force at Royal Assent, see [s. 87\(1\)](#)

- 6 In section 108 (forged document: proceedings in private), in subsection (2), after “The Tribunal” insert “or the Upper Tribunal”.

**Commencement Information**

**I16** Sch. 3 para. 6 not in force at Royal Assent, see [s. 87\(1\)](#)

- 7 In section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (claimant’s credibility), in subsection (9A)—
- (a) for the words from the beginning to “subsection (7) the” substitute “In this section a”;
  - (b) after “acting” insert “—  
(a)”;
  - (c) at the end insert “, or  
(b) in relation to—
    - (i) an expedited appeal within the meaning of section 82A of the Nationality, Immigration and Asylum Act 2002, or
    - (ii) an expedited related appeal within the meaning of section 24 of the Nationality and Borders Act 2022 that involves an asylum claim or a human rights claim.”

**Commencement Information**

**I17** Sch. 3 para. 7 not in force at Royal Assent, see [s. 87\(1\)](#)

SCHEDULE 4

Section 29

REMOVAL OF ASYLUM SEEKER TO SAFE COUNTRY

*Amendments to section 77 of the Nationality, Immigration and Asylum Act 2002*

- 1 In section 77 of the Nationality, Immigration and Asylum Act 2002 (no removal while claim for asylum pending), after subsection (2) insert—
- “(2A) This section does not prevent a person being removed to, or being required to leave to go to, a State falling within subsection (2B).

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- (2B) A State falls within this subsection if—
- (a) it is a place where a person’s life and liberty are not threatened by reason of the person’s race, religion, nationality, membership of a particular social group or political opinion,
  - (b) it is a place from which a person will not be removed elsewhere other than in accordance with the Refugee Convention,
  - (c) it is a place—
    - (i) to which a person can be removed without their Convention rights under Article 3 (no torture or inhuman or degrading treatment or punishment) being contravened, and
    - (ii) from which a person will not be sent to another State in contravention of the person’s Convention rights, and
  - (d) the person is not a national or citizen of the State.
- (2C) For the purposes of this section—
- (a) any State to which Part 2 or 3 of Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 for the time being applies—
    - (i) is to be presumed to be a State falling within subsection (2B) (a) and (b), and
    - (ii) is, unless the contrary is shown by a person to be the case in their particular circumstances, to be presumed to be a State falling within subsection (2B)(c)(i) and (ii);
  - (b) any State to which Part 4 of that Schedule for the time being applies is to be presumed to be a State falling within subsection (2B)(a) and (b);
  - (c) a reference to anything being done in accordance with the Refugee Convention is a reference to the thing being done in accordance with the principles of the Convention, whether or not by a signatory to it;
  - (d) “State” includes any territory outside of the United Kingdom.”

**Commencement Information**

**I18** Sch. 4 para. 1 not in force at Royal Assent, see [s. 87\(1\)](#)

**I19** Sch. 4 para. 1 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, [Sch. 1 para. 17](#) (with [Sch. 2 para. 4\(4\)](#))

- 2 In subsection (3) of that section, for “subsection (2)” substitute “this section, “Convention rights” means the rights identified as Convention rights by section 1 of the Human Rights Act 1998 (whether or not in relation to a State that is a party to the Convention); and”.

**Commencement Information**

**I20** Sch. 4 para. 2 not in force at Royal Assent, see [s. 87\(1\)](#)

**I21** Sch. 4 para. 2 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, [Sch. 1 para. 17](#) (with [Sch. 2 para. 4\(4\)](#))

**Commencement Information**

**I18** Sch. 4 para. 1 not in force at Royal Assent, see [s. 87\(1\)](#)



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- I19** Sch. 4 para. 1 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))  
**I20** Sch. 4 para. 2 not in force at Royal Assent, see **s. 87(1)**  
**I21** Sch. 4 para. 2 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))

*Amendments to Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004: introductory*

- 3 Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (the “2004 Act”) (removal of asylum seeker to safe country) is amended as follows.

**Commencement Information**

- I22** Sch. 4 para. 3 not in force at Royal Assent, see **s. 87(1)**  
**I23** Sch. 4 para. 3 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))

*Amendments consequential on amendments to section 77 of the 2002 Act*

- 4 Omit paragraphs 4, 9, 14 and 18.

**Commencement Information**

- I24** Sch. 4 para. 4 not in force at Royal Assent, see **s. 87(1)**  
**I25** Sch. 4 para. 4 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 17** (with Sch. 2 para. 4(4))

*Rebuttable presumption of safety of specified countries in relation to Convention rights*

- 5 (1) Paragraph 3 (presumptions of safety) is amended as follows.
- (2) In sub-paragraph (1), in the opening words, after “human rights claim” insert “(the “claimant”)”.
- (3) After sub-paragraph (1) insert—
- “(1A) Unless the contrary is shown by the claimant to be the case in their particular circumstances, a State to which this Part applies is to be treated, in so far as relevant to the question mentioned in sub-paragraph (1), as a place—
- (a) to which a person can be removed without their Convention rights under Article 3 (no torture or inhuman or degrading treatment or punishment) being contravened, and
- (b) from which a person will not be sent to another State in contravention of their Convention rights.”
- (4) In sub-paragraph (2), omit paragraph (b) (but not the final “and”).

**Commencement Information**

- I26** Sch. 4 para. 5 in force at 28.6.2022, see **s. 87(5)(b)**

- 6 In paragraph 5 (in country appeals in cases of removal to safe country)—
- (a) in sub-paragraph (3), omit paragraph (b) (together with the preceding “or”);

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- (b) in sub-paragraph (4), in both places they appear, omit the words “to which this sub-paragraph applies”;
- (c) omit sub-paragraph (5).

**Commencement Information**

**I27** Sch. 4 para. 6 in force at 28.6.2022, see s. 87(5)(b)

**Commencement Information**

**I26** Sch. 4 para. 5 in force at 28.6.2022, see s. 87(5)(b)

**I27** Sch. 4 para. 6 in force at 28.6.2022, see s. 87(5)(b)

*Safe countries*

- 7 In paragraph 1(1) (definitions), after the definition of “the Refugee Convention”, insert—
- ““State” includes any territory outside of the United Kingdom.”

**Commencement Information**

**I28** Sch. 4 para. 7 in force at 28.6.2022, see s. 87(5)(b)

- 8 In paragraph 2 (countries to which presumptions of safety in Part 2 of Schedule 3 apply)—
- (a) after paragraph (ba) insert—
    - “(bb) Republic of Croatia,”;
  - (b) after paragraph (o) insert—
    - “(oa) Principality of Liechtenstein,”.

**Commencement Information**

**I29** Sch. 4 para. 8 in force at 28.6.2022, see s. 87(5)(b)

- 9 In paragraph 20(1) (powers to amend list of safe countries by order)—
- (a) the words from “add a State” to the end become paragraph (a);
  - (b) after that paragraph (a) insert “, or
    - (b) remove a State from that list.”

**Commencement Information**

**I30** Sch. 4 para. 9 in force at 28.6.2022, see s. 87(5)(b)

- 10 In paragraph 21 (procedure for orders under paragraph 20)—
- (a) in sub-paragraph (1), in the opening words, for “20(1)” substitute “20(1)(a)”;
  - (b) in sub-paragraph (2), in the opening words, for “20(2)(b)” substitute “20(1)(b) or (2)(b)”.

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**Commencement Information**

**I31** Sch. 4 para. 10 in force at 28.6.2022, see s. 87(5)(b)

**Commencement Information**

**I28** Sch. 4 para. 7 in force at 28.6.2022, see s. 87(5)(b)

**I29** Sch. 4 para. 8 in force at 28.6.2022, see s. 87(5)(b)

**I30** Sch. 4 para. 9 in force at 28.6.2022, see s. 87(5)(b)

**I31** Sch. 4 para. 10 in force at 28.6.2022, see s. 87(5)(b)

*Appeal rights*

- 11 In paragraph 5 (appeal rights where person certified for removal to State to which Part 2 applies) in sub-paragraphs (3) and (4), omit “from within the United Kingdom”.

**Commencement Information**

**I32** Sch. 4 para. 11 in force at 28.6.2022, see s. 87(5)(b)

- 12 Omit paragraph 6 (no out of country appeal rights).

**Commencement Information**

**I33** Sch. 4 para. 12 in force at 28.6.2022, see s. 87(5)(b)

- 13 In paragraph 10 (appeal rights where person certified for removal to State to which Part 3 applies), in sub-paragraphs (3) and (4), omit “from within the United Kingdom”.

**Commencement Information**

**I34** Sch. 4 para. 13 in force at 28.6.2022, see s. 87(5)(b)

- 14 Omit paragraph 11 (no out of country appeal rights).

**Commencement Information**

**I35** Sch. 4 para. 14 in force at 28.6.2022, see s. 87(5)(b)

- 15 In paragraph 15 (appeal rights where person certified for removal to State to which Part 4 applies), in sub-paragraphs (3) and (4), omit “from within the United Kingdom”.

**Commencement Information**

**I36** Sch. 4 para. 15 in force at 28.6.2022, see s. 87(5)(b)

- 16 Omit paragraph 16 (no out of country appeal rights).

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**Commencement Information**

**I37** Sch. 4 para. 16 in force at 28.6.2022, see s. 87(5)(b)

- 17 In paragraph 19 (appeal rights where person certified for removal to a State safe for that person)—
- (a) in sub-paragraphs (b) and (c), omit “from within the United Kingdom”;
  - (b) omit sub-paragraph (d).

**Commencement Information**

**I38** Sch. 4 para. 17 in force at 28.6.2022, see s. 87(5)(b)

**Commencement Information**

**I32** Sch. 4 para. 11 in force at 28.6.2022, see s. 87(5)(b)

**I33** Sch. 4 para. 12 in force at 28.6.2022, see s. 87(5)(b)

**I34** Sch. 4 para. 13 in force at 28.6.2022, see s. 87(5)(b)

**I35** Sch. 4 para. 14 in force at 28.6.2022, see s. 87(5)(b)

**I36** Sch. 4 para. 15 in force at 28.6.2022, see s. 87(5)(b)

**I37** Sch. 4 para. 16 in force at 28.6.2022, see s. 87(5)(b)

**I38** Sch. 4 para. 17 in force at 28.6.2022, see s. 87(5)(b)

*Consequential amendments*

- 18 In section 92 of the Nationality, Immigration and Asylum Act 2002 (place from which an appeal may be brought), omit—
- (a) subsection (2)(b) (and the preceding “or”);
  - (b) subsection (3)(b) (and the preceding “or”).

**Commencement Information**

**I39** Sch. 4 para. 18 in force at 28.6.2022, see s. 87(5)(b)

*Transitional provision*

- 19 (1) The amendments made by paragraph 6 do not apply to a case in which the Secretary of State made the certification under paragraph 5(1) of Schedule 3 to the 2004 Act before the coming into force of paragraph 6 of this Schedule.
- (2) The amendments made by paragraphs 11, 13, 15 and 17 to the following provisions of Schedule 3 to the 2004 Act do not apply to a case in which the claim was certified as clearly unfounded by the Secretary of State before the coming into force of those paragraphs—
- (a) paragraph 5(4);
  - (b) paragraph 10(4);
  - (c) paragraph 15(4);
  - (d) paragraph 19(c).

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#### Commencement Information

**I40** Sch. 4 para. 19 in force at 28.6.2022, see [s. 87\(5\)\(b\)](#)

## SCHEDULE 5

Section 42

### PENALTY FOR FAILURE TO SECURE GOODS VEHICLE ETC

- 1 Part 2 of the Immigration and Asylum Act 1999 (carriers' liability) is amended as follows.

#### Commencement Information

**I41** Sch. 5 para. 1 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)

**I42** Sch. 5 para. 1 in force at 13.2.2023 for specified purposes by [S.I. 2023/33](#), [reg. 2\(1\)\(c\)\(i\)\(2\)](#) (with [reg. 4](#))

- 2 For the italic heading before section 32 substitute “Penalties for failure to secure goods vehicle and for carrying clandestine entrants”.

#### Commencement Information

**I43** Sch. 5 para. 2 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)

**I44** Sch. 5 para. 2 in force at 13.2.2023 in so far as not already in force by [S.I. 2023/33](#), [reg. 2\(1\)\(b\)](#) (with [reg. 4](#))

- 3 Before section 32 (but after the italic heading before that section) insert—

#### “31A Penalty for failure to secure goods vehicle etc

- (1) The Secretary of State may impose a penalty on a person responsible for a goods vehicle which has arrived at a place mentioned in subsection (2) if—
- (a) on its arrival at that place, the vehicle is not adequately secured against unauthorised access (see subsection (4)(a)), and
  - (b) the person has not taken the actions specified in regulations under subsection (4)(b) as actions to be taken by that person in relation to the securing of the vehicle against unauthorised access before or during its journey to that place.
- (2) Those places are—
- (a) a place where immigration control is operated, and
  - (b) in a case where the vehicle previously arrived at a place outside the United Kingdom where immigration control is operated and then journeyed to a place in the United Kingdom, that place in the United Kingdom.
- (3) A penalty may be imposed under subsection (1) regardless of whether any person has obtained unauthorised access to the vehicle during its journey to the place mentioned in subsection (2).

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- (4) The Secretary of State must specify in regulations for the purposes of subsection (1)—
- (a) what is meant by a goods vehicle being adequately secured against unauthorised access, and
  - (b) the actions to be taken by each person responsible for a goods vehicle in relation to the securing of the vehicle against unauthorised access.
- (5) The actions that may be specified in regulations under subsection (4)(b) include, in particular—
- (a) actions in relation to checking a person has not gained unauthorised access to the vehicle,
  - (b) actions in relation to the reporting of any unauthorised access to the vehicle, and
  - (c) actions in relation to the keeping of records to establish that other actions specified in the regulations have been taken.
- (6) Before making regulations under subsection (4), the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (7) In imposing a penalty under subsection (1), the Secretary of State—
- (a) must specify an amount which does not exceed the maximum prescribed for the purpose of this paragraph,
  - (b) may impose separate penalties on more than one of the persons responsible for a goods vehicle, and
  - (c) may not impose penalties which amount in aggregate to more than the maximum prescribed for the purpose of this paragraph.
- (8) A penalty imposed under subsection (1) must be paid to the Secretary of State before the end of the prescribed period.
- (9) A person is not liable to the imposition of a penalty under subsection (1) if that person's failure to take the actions specified in regulations under subsection (4)(b) was as a result of duress.
- (10) If a penalty is imposed under subsection (1) in relation to the arrival of a goods vehicle in a place outside the United Kingdom where immigration control is operated, a penalty may not be imposed in relation to the vehicle's arrival in the United Kingdom as part of the same journey.
- (11) A penalty may not be imposed on a person under subsection (1) if a penalty is imposed on that person under section 32(2) in respect of the same circumstances.
- (12) Where a penalty is imposed under subsection (1) on a person who is the driver of a goods vehicle pursuant to a contract (whether or not a contract of employment) with a person ("P") who is the vehicle's owner or hirer—
- (a) the driver and P are jointly and severally liable for the penalty imposed on the driver (whether or not a penalty is also imposed on P), and
  - (b) a provision of this Part about notification, objection or appeal has effect as if the penalty imposed on the driver were also imposed on

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P (whether or not a penalty is also imposed on P in P’s capacity as the owner or hirer of the vehicle).

- (13) In the case of a detached trailer, subsection (12) has effect as if a reference to the driver were a reference to the operator.
- (14) For the purposes of this section the persons responsible for a goods vehicle are—
  - (a) if the goods vehicle is a detached trailer, the owner, hirer and operator of the trailer, and
  - (b) if it is not, the owner, hirer and driver of the vehicle.
- (15) Where by virtue of subsection (14) a person is responsible for a goods vehicle in more than one capacity, a separate penalty may be imposed on the person under subsection (1) in respect of each capacity.
- (16) In this section “immigration control” means United Kingdom immigration control and includes any United Kingdom immigration control operated in a prescribed control zone outside the United Kingdom.”

#### Commencement Information

**I45** Sch. 5 para. 3 in force at Royal Assent for specified purposes, see **s. 87(1)(4)(c)**

**I46** Sch. 5 para. 3 in force at 13.2.2023 in so far as not already in force by S.I. 2023/33, **reg. 2(1)(b)** (with reg. 4)

- 4 (1) Section 32 (penalty for carrying clandestine entrants) is amended as follows.
  - (2) After subsection (2A) insert—
    - “(2B) The Secretary of State may reduce the amount of a penalty under this section if the responsible person can show that they took the actions specified in regulations under subsection (2C) in relation to the securing of the transporter against unauthorised access.
    - (2C) The Secretary of State must specify in regulations the actions that a responsible person must have taken in order to be eligible for a reduction in the amount of a penalty.
    - (2D) The actions that may be specified in regulations under subsection (2C) include, in particular—
      - (a) actions in relation to checking a person has not gained unauthorised access to the transporter,
      - (b) actions in relation to the reporting of any unauthorised access to the transporter, and
      - (c) actions in relation to the keeping of records to establish that other actions specified in the regulations have been taken.
    - (2E) Before making regulations under subsection (2C), the Secretary of State must consult such persons as the Secretary of State considers appropriate.”
  - (3) For subsection (4) substitute—

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“(4) Where a penalty is imposed under subsection (2) on a person who is the driver of a vehicle pursuant to a contract (whether or not a contract of employment) with a person (“P”) who is the vehicle’s owner or hirer—

- (a) the driver and P are jointly and severally liable for the penalty imposed on the driver (whether or not a penalty is also imposed on P), and
- (b) a provision of this Part about notification, objection or appeal has effect as if the penalty imposed on the driver were also imposed on P (whether or not a penalty is also imposed on P in P’s capacity as the owner or hirer of the vehicle).”

(4) After subsection (6A) insert—

“(6B) A penalty may not be imposed on a person under subsection (2) if a penalty is imposed on that person under section 31A(1) in respect of the same circumstances.”

#### Commencement Information

**I47** Sch. 5 para. 4 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)

**I48** Sch. 5 para. 4 in force at 13.2.2023 for specified purposes by [S.I. 2023/33](#), [reg. 2\(1\)\(c\)\(i\)\(2\)](#) (with [reg. 4](#))

5 (1) Section 32A (level of penalty: code of practice) is amended as follows.

(2) Before subsection (1) insert—

“(A1) The Secretary of State must issue a code of practice specifying matters to be considered in determining the amount of a penalty under section 31A.

(B1) The Secretary of State must have regard to the code (in addition to any other matters the Secretary of State thinks relevant)—

- (a) when imposing a penalty under section 31A, and
- (b) when considering a notice of objection under section 35(4) in relation to a penalty under section 31A.”

(3) In subsection (2)(b), after “35(4)” insert “in relation to a penalty under section 32”.

(4) In subsection (3) for “the code” substitute “a code under this section”.

(5) In subsection (4) for “the draft code” substitute “a draft code”.

(6) In subsection (5) for “the code” in the first place it occurs substitute “a code under this section”.

(7) In subsection (6) for “the code” substitute “a code”.

#### Commencement Information

**I49** Sch. 5 para. 5 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)

**I50** Sch. 5 para. 5 in force at 13.2.2023 for specified purposes by [S.I. 2023/33](#), [reg. 2\(1\)\(c\)\(i\)\(2\)](#) (with [reg. 4](#))

6 Omit section 33 (prevention of clandestine entrants: code of practice).



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**Commencement Information**

- I51** Sch. 5 para. 6 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)
- I52** Sch. 5 para. 6 in force at 13.2.2023 for specified purposes by [S.I. 2023/33](#), [reg. 2\(1\)\(c\)\(i\)\(2\)](#) (with [reg. 4](#))

- 7 (1) Section 34 (defences to claim that penalty is due under section 32) is amended as follows.
- (2) Omit subsection (3).
- (3) In subsection (3A)—
- (a) at the end of paragraph (b) insert “and”,
  - (b) for paragraph (c) substitute—
    - “(c) the carrier had taken the actions specified in regulations under subsection (3B) in relation to the securing of the wagon against unauthorised access.”, and
  - (c) omit paragraph (d).
- (4) After subsection (3A) insert—
- “(3B) The Secretary of State must specify in regulations the actions to be taken for the purposes of subsection (3A)(c) in relation to the securing of a rail freight wagon against unauthorised access.
  - (3C) The actions that may be specified in regulations under subsection (3B) include, in particular—
    - (a) actions in relation to checking a person has not gained unauthorised access to the wagon,
    - (b) actions in relation to the reporting of any unauthorised access to the wagon, and
    - (c) actions in relation to the keeping of records to establish that other actions specified in the regulations have been taken.
  - (3D) Before making regulations under subsection (3B), the Secretary of State must consult such persons as the Secretary of State considers appropriate.”
- (5) Omit subsection (4).

**Commencement Information**

- I53** Sch. 5 para. 7 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)
- I54** Sch. 5 para. 7(1)(2)(5) in force at 13.2.2023 for specified purposes by [S.I. 2023/33](#), [reg. 2\(1\)\(c\)\(ii\)\(2\)](#) (with [reg. 4](#))

- 8 (1) Section 35 (procedure for penalties and objections against penalties) is amended as follows.
- <sup>F1</sup>(2) . . . . .
- (3) In subsection (1) after “section” insert “31A or”.
- (4) In subsection (2)—
- (a) omit the “and” at the end of paragraph (c), and

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- (b) at the end of paragraph (d) insert “and
- (e) be issued before the end of such period as may be prescribed.”

(5) In subsection (10) after “section” insert “31A or”.

(6) In subsection (12)—

- (a) omit the “or” at the end of paragraph (c), and
- (b) after paragraph (c) insert—  
“ca) by electronic mail, or”.

#### Textual Amendments

**F1** Sch. 5 para. 8(2) omitted (20.7.2023) by virtue of [Illegal Migration Act 2023 \(c. 37\)](#), **ss. 64(5), 68(3)(c)** (with [s. 55\(9\)](#))

#### Commencement Information

**I55** Sch. 5 para. 8 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)

**I56** Sch. 5 para. 8(1)(3)-(6) in force at 13.2.2023 for specified purposes by [S.I. 2023/33](#), **reg. 2(1)(c)(iii)(2)** (with [reg. 4](#))

9 (1) Section 35A (appeals) is amended as follows.

(2) In subsection (1) after “section” insert “31A or”.

(3) In subsection (3)—

- (a) at the end of paragraph (a) insert “and”, and
- (b) omit paragraph (b) and the “and” at the end of that paragraph.

#### Commencement Information

**I57** Sch. 5 para. 9 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)

**I58** Sch. 5 para. 9 in force at 13.2.2023 for specified purposes by [S.I. 2023/33](#), **reg. 2(1)(c)(iv)(2)** (with [reg. 4](#))

10 (1) Section 36 (power to detain vehicles etc in connection with penalties under section 32) is amended as follows.

(2) In the heading, after “section” insert “31A or”.

(3) In subsection (2A)(a), for “is an employee of its owner or hirer” substitute “drives the vehicle pursuant to a contract (whether or not a contract of employment) with the owner or hirer of the vehicle”.

(4) After subsection (2A) insert—

“(2AA) In the case of a detached trailer, subsection (2A) has effect as if—

- (a) a reference to the driver were a reference to the operator, and
- (b) the reference to driving the vehicle were a reference to operating it.”

(5) After subsection (5) insert—

“(6) A document which is to be issued to or served on a person outside the United Kingdom for the purposes of this section may be issued or served—

- (a) in person,

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- (b) by post,
- (c) by facsimile transmission,
- (d) by electronic mail, or
- (e) in another prescribed manner.

(7) The Secretary of State may by regulations provide that a document issued or served in a manner listed in subsection (6) in accordance with the regulations is to be taken to have been received at a time specified by or determined in accordance with the regulations.”

#### Commencement Information

**I59** Sch. 5 para. 10 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)

**I60** [Sch. 5 para. 10](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/33](#), [reg. 2\(1\)\(c\)\(iv\)\(2\)](#) (with [reg. 4](#))

- 11 (1) Section 36A (detention in default of payment) is amended as follows.
- (2) In subsection (4)(b), for “was an employee of” substitute “drove the vehicle pursuant to a contract (whether or not a contract of employment) with”.
- (3) After subsection (4) insert—
- “(4A) In the case of a detached trailer, subsection (4)(b) has effect as if the reference to driving the vehicle were a reference to operating it.”
- (4) After subsection (6) insert—
- “(7) If a transporter is detained under this section, the owner, consignor or any other person who has an interest in any freight or other thing carried in or on the transporter may remove it, or arrange for it to be removed, at such time and in such way as is reasonable.
- (8) The detention of a transporter under this section is lawful even though it is subsequently established that the penalty notice on which the detention was based was ill-founded in respect of all or any of the penalties to which it related.
- (9) But subsection (8) does not apply if the Secretary of State was acting unreasonably in issuing the penalty notice.
- (10) A document which is to be issued to or served on a person outside the United Kingdom for the purposes of this section may be issued or served—
- (a) in person,
  - (b) by post,
  - (c) by facsimile transmission,
  - (d) by electronic mail, or
  - (e) in another prescribed manner.
- (11) The Secretary of State may by regulations provide that a document issued or served in a manner listed in subsection (10) in accordance with the regulations is to be taken to have been received at a time specified by or determined in accordance with the regulations.”

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**Commencement Information**

- I61** Sch. 5 para. 11 in force at Royal Assent for specified purposes, see **s. 87(1)(4)(c)**  
**I62** Sch. 5 para. 11 in force at 13.2.2023 for specified purposes by **S.I. 2023/33, reg. 2(1)(c)(iv)(2)** (with reg. 4)

- 12 (1) Section 43 (interpretation of Part 2) is amended as follows.
- (2) In subsection (1)—
- (a) at the appropriate place insert—
- ““goods vehicle” means—
- (a) a mechanically propelled vehicle which—
- (i) is designed or adapted solely or principally to be used for the carriage or haulage of goods, and
- (ii) at the time in question, is being used for a commercial purpose, or
- (b) any trailer, semi-trailer or other thing which—
- (i) is designed or adapted to be towed by a vehicle within paragraph (a)(i), and
- (ii) at the time in question, is being used for a commercial purpose;”, and
- (b) in the definition of “transporter” after “vehicle” insert “(including a goods vehicle)”.
- (3) After subsection (1) insert—
- “(1A) References in this Part to the securing of a goods vehicle against unauthorised access include references to the securing of any container which is being carried by a goods vehicle against unauthorised access.
- (1B) In subsection (1A) “container” means any container or other thing which is designed or adapted to be carried by a goods vehicle.”

**Commencement Information**

- I63** Sch. 5 para. 12 in force at Royal Assent for specified purposes, see **s. 87(1)(4)(c)**  
**I64** Sch. 5 para. 12 in force at 13.2.2023 in so far as not already in force by **S.I. 2023/33, reg. 2(1)(b)** (with reg. 4)

SCHEDULE 6

Section 43(2)

WORKING IN UNITED KINGDOM WATERS: CONSEQUENTIAL AND RELATED AMENDMENTS

*Immigration Act 1971 (c. 77)*

- 1 The Immigration Act 1971 is amended as follows.

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**Commencement Information**

**I65** Sch. 6 para. 1 in force at 24.8.2022 for specified purposes by S.I. 2022/912, reg. 2(b)(i)

**I66** Sch. 6 para. 1 in force at 12.4.2023 in so far as not already in force by S.I. 2023/283, reg. 3(b)

2 In section 8 (exceptions for seamen etc), after subsection (1) insert—

“(1A) Subsection (1) does not apply in relation to a member of the crew of a ship who is an offshore worker within the meaning of section 11A.”

**Commencement Information**

**I67** Sch. 6 para. 2 in force at 12.4.2023 by S.I. 2023/283, reg. 3(b)

3 In section 11 (references to entry etc), after subsection (1) insert—

“(1ZA) See also section 11A (additional means by which persons arriving in United Kingdom waters for work can enter the UK).”

**Commencement Information**

**I68** Sch. 6 para. 3 in force at 12.4.2023 by S.I. 2023/283, reg. 3(b)

4 In section 28 (proceedings for offences)—

(a) before subsection (1) insert—

“(A1) Proceedings for an offence under this Part that is committed in the territorial sea adjacent to the United Kingdom may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.”;

(b) in subsection (2A), for “section 25 or 25A” substitute “this Part”.

**Commencement Information**

**I69** Sch. 6 para. 4 not in force at Royal Assent, see s. 87(1)

**I70** Sch. 6 para. 4(a) in force at 12.4.2023 by S.I. 2023/283, reg. 3(b)

**I71** Sch. 6 para. 4(b) in force at 24.8.2022 by S.I. 2022/912, reg. 2(b)(ii)

5 In section 28L (interpretation of Part 3) —

(a) in subsection (1), at the beginning insert “Subject to subsection (1A)”;

(b) after subsection (1) insert—

“(1A) In this Part “premises” also includes any artificial island, installation or structure (including one in the territorial sea adjacent to the United Kingdom).”

**Commencement Information**

**I72** Sch. 6 para. 5 in force at 12.4.2023 by S.I. 2023/283, reg. 3(b)

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- 6 In section 28M (enforcement powers in relation to ships: England and Wales), in subsection (2)(a)—
- (a) for “section” substitute—
    - “(i) section 24B,”;
  - (b) for “, and” substitute “, or
    - (ii) section 21 of the Immigration, Asylum and Nationality Act 2006, and”.

**Commencement Information**

**I73** Sch. 6 para. 6 in force at 12.4.2023 by S.I. 2023/283, reg. 3(b)

- 7 In section 28N (enforcement powers in relation to ships: Scotland), in subsection (2)(a)—
- (a) for “section” substitute—
    - “(i) section 24B,”;
  - (b) for “, and” substitute “, or
    - (ii) section 21 of the Immigration, Asylum and Nationality Act 2006, and”.

**Commencement Information**

**I74** Sch. 6 para. 7 in force at 12.4.2023 by S.I. 2023/283, reg. 3(b)

- 8 In section 28O (enforcement powers in relation to ships: Northern Ireland), in subsection (2)(a)—
- (a) for “section” substitute—
    - “(i) section 24B,”;
  - (b) for “, and” substitute “, or
    - (ii) section 21 of the Immigration, Asylum and Nationality Act 2006, and”.

**Commencement Information**

**I75** Sch. 6 para. 8 in force at 12.4.2023 by S.I. 2023/283, reg. 3(b)

- 9 (1) Schedule 2 (administrative provision as to control on entry etc) is amended as follows.
- (2) In paragraph 2—
- (a) in sub-paragraph (1), for the words from “who have” to “United Kingdom)” substitute “within sub-paragraph (1A)”;
  - (b) after sub-paragraph (1) insert—
    - “(1A) The persons are—
      - (a) any person who has arrived in the United Kingdom by ship or aircraft (including transit passengers, members of the crew and others not seeking to enter the United Kingdom);

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- (b) any person who has arrived in United Kingdom waters by ship or aircraft who the immigration officer has reason to believe is an offshore worker.

(1B) In sub-paragraph (1A), “offshore worker” and “United Kingdom waters” have the same meaning as in section 11A.”

(3) In paragraph 27—

- (a) after sub-paragraph (1) insert—

“(1A) Sub-paragraph (1) also applies to the captain of a ship or aircraft arriving in United Kingdom waters if—

- (a) there are offshore workers on board, or
- (b) an immigration officer has informed the captain that they wish to examine any person on board in the exercise of the power under paragraph 2.

(1B) In sub-paragraph (1A), “offshore worker” and “United Kingdom waters” have the same meaning as in section 11A.”

(4) In paragraph 27B—

- (a) after sub-paragraph (1) insert—

“(1A) This paragraph also applies to ships or aircraft—

- (a) which have offshore workers on board, and
- (b) which—
  - (i) have arrived, or are expected to arrive, in United Kingdom waters, or
  - (ii) have left, or are expected to leave, United Kingdom waters.”;

- (b) after sub-paragraph (9A) insert—

“(9B) “Offshore worker” and “United Kingdom waters” have the same meaning in this paragraph as in section 11A.”

(5) In paragraph 27BA—

- (a) after sub-paragraph (1) insert—

“(1A) The Secretary of State may also make regulations requiring responsible persons in respect of ships or aircraft—

- (a) which have offshore workers on board, and
- (b) which—
  - (i) have arrived, or are expected to arrive, in United Kingdom waters, or
  - (ii) have left, or are expected to leave, United Kingdom waters,

to supply information to the Secretary of State or an immigration officer.”;

- (b) in sub-paragraph (2), after “(1)” insert “or (1A)”;
- (c) after sub-paragraph (5) insert—

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“(5A) For the purposes of this paragraph, “offshore workers” and “United Kingdom waters” have the same meaning as in section 11A.”

**Commencement Information**

**I76** Sch. 6 para. 9 in force at 12.4.2023 by S.I. 2023/283, reg. 3(b)

- 10 (1) Schedule 4A (maritime enforcement powers) is amended as follows.
- (2) In paragraph 1(2), after the opening words insert—  
 ““the 2006 Act” means the Immigration, Asylum and Nationality Act 2006;”.
- (3) In paragraph 2(1)(a), for “25 or 25A” substitute “24B, 25 or 25A of this Act or section 21 of the 2006 Act”.
- (4) In paragraph 3(1)(a), for “25, 25A and 25B” substitute “24B, 25, 25A or 25B of this Act or section 21 of the 2006 Act”.
- (5) In paragraph 4(1), for “25, 25A or 25B” substitute “24B, 25, 25A or 25B of this Act or section 21 of the 2006 Act”.
- (6) In paragraph 12(2), after the opening words insert—  
 ““the 2006 Act” means the Immigration, Asylum and Nationality Act 2006;”.
- (7) In paragraph 13(1)(a), for “25 or 25A” substitute “24B, 25 or 25A of this Act or section 21 of the 2006 Act”.
- (8) In paragraph 14(1)(a), for “25 or 25A” substitute “24B, 25 or 25A of this Act or section 21 of the 2006 Act”.
- (9) In paragraph 15(1), for “25 or 25A” substitute “24B, 25 or 25A of this Act or section 21 of the 2006 Act”.
- (10) In paragraph 23(2), after the opening words insert—  
 ““the 2006 Act” means the Immigration, Asylum and Nationality Act 2006;”.
- (11) In paragraph 24(1)(a), for “25 or 25A” substitute “24B, 25 or 25A of this Act or section 21 of the 2006 Act”.
- (12) In paragraph 25(1)(a), for “25 or 25A” substitute “24B, 25 or 25A of this Act or section 21 of the 2006 Act”.
- (13) In paragraph 26(1), for “25 or 25A” substitute “24B, 25 or 25A of this Act or section 21 of the 2006 Act”.

**Commencement Information**

**I77** Sch. 6 para. 10 in force at 12.4.2023 by S.I. 2023/283, reg. 3(b)



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#### Commencement Information

- I65** Sch. 6 para. 1 in force at 24.8.2022 for specified purposes by S.I. 2022/912, **reg. 2(b)(i)**
- I66** Sch. 6 para. 1 in force at 12.4.2023 in so far as not already in force by S.I. 2023/283, **reg. 3(b)**
- I67** Sch. 6 para. 2 in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**
- I68** Sch. 6 para. 3 in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**
- I69** Sch. 6 para. 4 not in force at Royal Assent, see **s. 87(1)**
- I70** Sch. 6 para. 4(a) in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**
- I71** Sch. 6 para. 4(b) in force at 24.8.2022 by S.I. 2022/912, **reg. 2(b)(ii)**
- I72** Sch. 6 para. 5 in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**
- I73** Sch. 6 para. 6 in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**
- I74** Sch. 6 para. 7 in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**
- I75** Sch. 6 para. 8 in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**
- I76** Sch. 6 para. 9 in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**
- I77** Sch. 6 para. 10 in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**

#### *Immigration, Asylum and Nationality Act 2006 (c. 13)*

- 11 In section 21 of the Immigration, Asylum and Nationality Act 2006 (offence of employing a person who is disqualified from employment by their immigration status), after subsection (3) insert—

“(3A) Proceedings for an offence under this section that is committed in the territorial sea adjacent to the United Kingdom may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

(3B) Section 3 of the Territorial Waters Jurisdiction Act 1878 (consent of Secretary of State for certain prosecutions) does not apply to proceedings for an offence under this section.”

#### Commencement Information

- I78** Sch. 6 para. 11 in force at 12.4.2023 by S.I. 2023/283, **reg. 3(b)**

## SCHEDULE 7

Section 45

### MARITIME ENFORCEMENT

- 1 Part 3A of the Immigration Act 1971 (maritime enforcement) is amended as follows.

#### Commencement Information

- I79** Sch. 7 para. 1 not in force at Royal Assent, see **s. 87(1)**
- I80** Sch. 7 para. 1 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 2 Before section 28M insert—

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### “28LA Enforcement powers in relation to ships: United Kingdom

- (1) An immigration officer or an enforcement officer may exercise the powers set out in Part A1 of Schedule 4A (“Part A1 powers”) in relation to any of the following in United Kingdom waters, foreign waters or international waters—
- (a) a United Kingdom ship;
  - (b) a ship without nationality;
  - (c) a foreign ship;
  - (d) a ship registered under the law of a relevant territory.
- (2) But Part A1 powers may be exercised only—
- (a) for the purpose of preventing, detecting, investigating or prosecuting a relevant offence, and
  - (b) in accordance with the rest of this section.
- (3) The authority of the Secretary of State is required before an immigration officer or an enforcement officer may exercise Part A1 powers in relation to—
- (a) a United Kingdom ship in foreign waters,
  - (b) a ship without nationality,
  - (c) a foreign ship, or
  - (d) a ship registered under the law of a relevant territory.”

#### Commencement Information

**I81** Sch. 7 para. 2 not in force at Royal Assent, see **s. 87(1)**

**I82** Sch. 7 para. 2 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 3 In section 28M (enforcement powers in relation to ships: England and Wales)—
- (a) in subsection (1), for the words from “An immigration officer” to “enforcement officer” substitute “An English and Welsh constable”, and
  - (b) in subsection (3)—
    - (i) omit “an immigration officer,”, and
    - (ii) omit “or an enforcement officer”.

#### Commencement Information

**I83** Sch. 7 para. 3 not in force at Royal Assent, see **s. 87(1)**

**I84** Sch. 7 para. 3 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 4 In section 28N (enforcement powers in relation to ships: Scotland)—
- (a) in subsection (1) for the words from “An immigration officer” to “enforcement officer” substitute “A Scottish constable”, and
  - (b) in subsection (3)—
    - (i) omit “an immigration officer,”, and
    - (ii) omit “or an enforcement officer”.

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#### Commencement Information

**I85** Sch. 7 para. 4 not in force at Royal Assent, see **s. 87(1)**

**I86** Sch. 7 para. 4 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 5 In section 28O (enforcement powers in relation to ships: Northern Ireland)—
- (a) in subsection (1) for the words from “An immigration officer” to “enforcement officer” substitute “A Northern Ireland constable”, and
  - (b) in subsection (3)—
    - (i) omit “an immigration officer”, and
    - (ii) omit “or an enforcement officer”.

#### Commencement Information

**I87** Sch. 7 para. 5 not in force at Royal Assent, see **s. 87(1)**

**I88** Sch. 7 para. 5 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 6 In section 28P (hot pursuit of ships in United Kingdom waters)—
- (a) in subsection (1), for the words from “An immigration officer” to “enforcement officer” substitute “An English and Welsh constable”,
  - (b) in subsection (3), for the words from “An immigration officer” to “enforcement officer” substitute “A Scottish constable”,
  - (c) in subsection (5), for the words from “An immigration officer” to “enforcement officer” substitute “A Northern Ireland constable”, and
  - (d) in subsection (10), omit “or an enforcement officer”.

#### Commencement Information

**I89** Sch. 7 para. 6 not in force at Royal Assent, see **s. 87(1)**

**I90** Sch. 7 para. 6 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 7 After section 28P insert—

#### “28PA Power to seize and dispose of ships etc.

- (1) This section applies if—
  - (a) an immigration officer has reasonable grounds to suspect that a ship has been used in the commission of a relevant offence, and
  - (b) the ship is in United Kingdom waters or otherwise in the United Kingdom.
- (2) Subject to subsection (3), the immigration officer may seize the ship and any property relating to the operation or use of the ship.
- (3) The authority of the Secretary of State is required before an immigration officer may seize anything under this section.
- (4) If an immigration officer seizes a foreign ship or a ship registered under the law of a relevant territory, the Secretary of State must notify the home state or relevant territory in question that the ship has been seized.

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- (5) In subsection (4) “home state”, in relation to a foreign ship, means—
- (a) the State in which the ship is registered, or
  - (b) the State whose flag the ship is otherwise entitled to fly.
- (6) Where a ship without nationality, or property relating to the operation or use of a ship without nationality, is seized under this section—
- (a) section 26 of the UK Borders Act 2007 (disposal of property) and any regulations made under that section do not apply in respect of that ship or other property, and
  - (b) subsections (7) to (12) apply instead.
- (7) The Secretary of State may—
- (a) return the ship or other property to the person whom the Secretary of State believes to be its owner, or
  - (b) after the relevant period—
    - (i) dispose of the ship or other property, or
    - (ii) determine that the ship or other property is to be retained to be used in the course of, or in connection with, a function under the Immigration Acts.
- (8) On the making of a determination under subsection (7)(b)(ii), the ship or other property vests in the Secretary of State.
- (9) The relevant period is the period of 31 days beginning with the date on which the ship or other property was seized.
- (10) Before exercising a power under subsection (7)(b), the Secretary of State must make reasonable efforts to—
- (a) ascertain the identity of the owner of the ship or other property, and
  - (b) subject to subsection (11), notify that person that the ship or other property has been seized.
- (11) The Secretary of State is not required to notify a person under subsection (10) (b) if to do so may prejudice any criminal investigation or criminal proceedings.
- (12) Disposal under this section may be in any manner the Secretary of State thinks fit, including—
- (a) by sale;
  - (b) by dismantling;
  - (c) by destruction;
  - (d) by donation of the ship or other property to a charity or other not-for-profit body.”

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#### Commencement Information

**I91** Sch. 7 para. 7 not in force at Royal Assent, see **s. 87(1)**

**I92** Sch. 7 para. 7 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- (a) at the appropriate places insert—

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““foreign waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant territory or any State other than the United Kingdom;”,

““international waters” means waters beyond the territorial sea of the United Kingdom or of any other State or relevant territory;”,

““Part A1 powers” means the powers set out in Part A1 of Schedule 4A;”,

““relevant offence” means—

(a) an offence under section 24(A1), (B1), (D1) or (E1), 24B, 25 or 25A,

(b) an offence under section 25B to the extent that the section continues to apply by virtue of regulation 5(7) of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309),

(c) an offence under section 21 of the Immigration, Asylum and Nationality Act 2006, or

(d) an offence under section 1 of the Criminal Attempts Act 1981 or Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983/1120 (N.I. 13)), or in Scotland at common law, of attempting to commit an offence mentioned in paragraph (a) to (c);”, and”

““United Kingdom waters” means the sea and other waters within the seaward limits of the United Kingdom’s territorial sea;”, and

(b) for the definition of ship substitute—

““ship” includes—

(a) every description of vessel (including a hovercraft), and

(b) any other structure (whether with or without means of propulsion) constructed or used to carry persons, goods, plant or machinery by water;”.

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**Commencement Information**

**I93** Sch. 7 para. 8 not in force at Royal Assent, see **s. 87(1)**

**I94** Sch. 7 para. 8 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

9 Schedule 4A (enforcement powers in relation to ships) is amended as follows.

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**Commencement Information**

**I95** Sch. 7 para. 9 not in force at Royal Assent, see **s. 87(1)**

**I96** Sch. 7 para. 9 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

10 Before Part 1, insert—

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## “PART A1

### UNITED KINGDOM

#### Introductory

- A1 (1) This Part of this Schedule sets out the powers exercisable by immigration officers and enforcement officers (referred to in this Part of this Schedule as “relevant officers”) under section 28LA.
- (2) In this Part of this Schedule—
- “items subject to legal privilege” means items in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings;
- “the ship” means the ship in relation to which the powers set out in this Part of this Schedule are exercised.

#### Power to stop, board, divert and detain

- B1 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that—
- (a) a relevant offence is being, or has been, committed on the ship, or
  - (b) the ship is otherwise being used in connection with the commission of a relevant offence.
- (2) The relevant officer may—
- (a) stop the ship;
  - (b) board the ship;
  - (c) require the ship to be taken to any place (on land or on water) in the United Kingdom or elsewhere and detained there;
  - (d) require the ship to leave United Kingdom waters.
- (3) The relevant officer may require the master of the ship or any member of its crew to take such action as is necessary for the purposes of sub-paragraph (2).
- (4) Where a ship is required to be taken to a place under sub-paragraph (2)(c), the relevant officer may require any person on board the ship to take such action as is reasonably necessary to ensure that person is taken to that place or to any other place determined by the relevant officer.
- (5) Where a ship is required to leave United Kingdom waters under sub-paragraph (2)(d), the relevant officer may require any person on board the ship to take such action as is reasonably necessary to ensure that person leaves United Kingdom waters.
- (6) The authority of the Secretary of State is required before a relevant officer may exercise the power under sub-paragraph (2)(c) to require the ship to be taken to any place—

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- (a) within a State other than the United Kingdom, or
  - (b) within a relevant territory.
- (7) But a relevant officer acting under authority given under section 28LA(3)(c) or (d) in relation to a foreign ship or a ship registered under the law of a relevant territory may require the ship to be taken to a place mentioned in sub-paragraph (8) without authority under sub-paragraph (6).
- (8) Those places are—
- (a) a place in the home state or relevant territory in question, or
  - (b) if the home state or relevant territory requests, a place in any other State or relevant territory willing to receive the ship.
- (9) A relevant officer must give notice in writing to the master of any ship detained under this paragraph.
- (10) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a relevant officer.
- (11) The requirement to give notice under sub-paragraph (9) does not apply where it is not reasonably possible to identify who is the master of the ship.
- (12) In this paragraph “home state”, in relation to a foreign ship, means—
- (a) the State in which the ship is registered, or
  - (b) the State whose flag the ship is otherwise entitled to fly.

#### **Power to search and obtain information**

- C1 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that there is evidence on the ship (other than items subject to legal privilege) relating—
- (a) to a relevant offence or,
  - (b) to an offence that is connected with a relevant offence.
- (2) The relevant officer may search—
- (a) the ship;
  - (b) anyone on the ship;
  - (c) anything on the ship (including cargo).
- (3) The relevant officer may require a person on the ship to give information about themselves or about anything on the ship.
- (4) The power to search conferred by sub-paragraph (2)—
- (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in sub-paragraph (1), and
  - (b) in the case of a search of a person, does not authorise a relevant officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves.

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- (5) In exercising a power conferred by sub-paragraph (2) or (3) a relevant officer may—
- (a) open any containers;
  - (b) require the production of documents, books or records relating to the ship or anything on it (but not including anything the relevant officer has reasonable grounds to believe is an item subject to legal privilege);
  - (c) make photographs or copies of anything the production of which the relevant officer has power to require.
- (6) The power in sub-paragraph (5)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away.
- (7) Sub-paragraph (5) is without prejudice to the generality of the powers conferred by sub-paragraphs (2) and (3).
- (8) A power conferred by this paragraph may be exercised on the ship or elsewhere.

#### **Power of arrest and seizure**

- D1 (1) This paragraph applies if a relevant officer has reasonable grounds to suspect that a relevant offence has been, or is being, committed on the ship.
- (2) The relevant officer may arrest without a warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of the offence.
- (3) The relevant officer may seize and retain anything found on the ship which appears to the officer to be evidence of the offence (but not including anything that the officer has reasonable grounds to believe to be an item subject to legal privilege).
- (4) A power conferred by this paragraph may be exercised on the ship or elsewhere.

#### **Protective searches of persons**

- E1 (1) A relevant officer may search a person found on the ship for anything which the officer has reasonable grounds to believe the person might use to—
- (a) cause physical injury,
  - (b) cause damage to property, or
  - (c) endanger the safety of any ship.
- (2) The power conferred by sub-paragraph (1) may be exercised—
- (a) only if the officer has reasonable grounds to believe that anything of a kind mentioned in that sub-paragraph is concealed on the person, and



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- (b) only to the extent that it is reasonably required for the purpose of discovering any such thing.
- (3) The relevant officer may seize and retain anything which the officer has grounds to believe might—
  - (a) cause physical injury,
  - (b) cause damage to property, or
  - (c) endanger the safety of any ship.
- (4) If the person is detained, nothing seized under sub-paragraph (3) may be retained when the person is released from detention.
- (5) A power conferred by this paragraph to search a person does not authorise a relevant officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves, but it does authorise the search of a person’s mouth.
- (6) A power conferred by this paragraph may be exercised on the ship or elsewhere.

#### **Search for nationality documents**

- F1 (1) A relevant officer may require a person found on the ship to produce a nationality document.
- (2) The relevant officer may search a person found on the ship where the officer has reasonable grounds to believe that a nationality document is concealed on the person.
- (3) The power conferred by sub-paragraph (2) may be exercised—
  - (a) only if the officer has reasonable grounds to believe that a nationality document is concealed on the person, and
  - (b) only to the extent that it is reasonably required for the purpose of discovering any such document.
- (4) Subject as follows, the officer may seize and retain a nationality document for as long as the officer believes the person to whom it relates will arrive in the United Kingdom by virtue of the exercise of the power under paragraph B1.
- (5) The power to retain a nationality document under sub-paragraph (4) does not affect any other power of an immigration officer to retain a document.
- (6) Where a nationality document has been seized and retained by a relevant officer who is not an immigration officer, the document must be passed to an immigration officer as soon as is practicable after the ship has arrived in the United Kingdom.
- (7) The power conferred by this paragraph to search a person does not authorise a relevant officer to—
  - (a) require the person to remove any clothing in public other than an outer coat, jacket or gloves, or
  - (b) seize and retain any document the officer has reasonable grounds to believe to be an item subject to legal privilege.

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- (8) In this paragraph a “nationality document”, in relation to a person, means any document which might—
- (a) establish the person’s identity, nationality or citizenship, or
  - (b) indicate the place from which the person has travelled to the United Kingdom or to which the person is proposing to go.
- (9) A power conferred by this paragraph may be exercised on the ship or elsewhere.

### **Assistants**

- G1 (1) A relevant officer may—
- (a) be accompanied by other persons, and
  - (b) take equipment or materials,
- to assist the officer in the exercise of powers under this Part of this Schedule.
- (2) A person accompanying a relevant officer under sub-paragraph (1) may perform any of the officer’s functions under this Part of this Schedule, but only under the officer’s supervision.

### **Reasonable force**

- H1 A relevant officer may use reasonable force, if necessary, in the performance of functions under this Part of this Schedule.

### **Evidence of authority**

- I1 A relevant officer must produce evidence of the relevant officer’s authority if asked to do so.

### **Protection of relevant officers**

- J1 A relevant officer is not liable in any criminal or civil proceedings for anything done in the purported performance of functions under this Part of this Schedule if the court is satisfied that—
- (a) the act was done in good faith, and
  - (b) there were reasonable grounds for doing it.

### **Offences under the law of England and Wales**

- K1 (1) A person commits an offence under the law of England and Wales if the person—
- (a) intentionally obstructs a relevant officer in the performance of functions under this Part of this Schedule in England and Wales, England and Wales waters, foreign waters or international waters, or
  - (b) fails without reasonable excuse to comply with a requirement made by a relevant officer in the performance of such functions.
- (2) A person who provides information in response to a requirement made by a relevant officer in the performance of functions under this Part of

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this Schedule in England and Wales, England and Wales waters, foreign waters or international waters commits an offence under the law of England and Wales if—

- (a) the information is false in a material particular, and the person either knows it is, or is reckless as to whether it is, or
  - (b) the person intentionally fails to disclose any material particular.
- (3) A relevant officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of an offence under this paragraph.
- (4) A person guilty of an offence under this paragraph is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine or to both.
- (5) In the application of sub-paragraph (4) in relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 the reference to 51 weeks is to be read as a reference to 6 months.

#### **Offences under the law of Scotland**

- L1 (1) A person commits an offence under the law of Scotland if the person—
- (a) intentionally obstructs a relevant officer in the performance of functions under this Part of this Schedule in Scotland, Scotland waters, foreign waters or international waters, or
  - (b) fails without reasonable excuse to comply with a requirement made by a relevant officer in the performance of such functions.
- (2) A person who provides information in response to a requirement made by a relevant officer in the performance of functions under this Part of this Schedule in Scotland, Scotland waters, foreign waters or international waters commits an offence under the law of Scotland if—
- (a) the information is false in a material particular, and the person either knows it is, or is reckless as to whether it is, or
  - (b) the person intentionally fails to disclose any material particular.
- (3) A relevant officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of an offence under this paragraph.
- (4) A person guilty of an offence under this paragraph is liable on summary conviction to imprisonment for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale or to both.

#### **Offences under the law of Northern Ireland**

- M1 (1) A person commits an offence under the law of Northern Ireland if the person—
- (a) intentionally obstructs a relevant officer in the performance of functions under this Part of this Schedule in Northern Ireland, Northern Ireland waters, foreign waters or international waters, or

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- (b) fails without reasonable excuse to comply with a requirement made by a relevant officer in the performance of such functions.
- (2) A person who provides information in response to a requirement made by a relevant officer in the performance of functions under this Part of this Schedule in Northern Ireland, Northern Ireland waters, foreign waters or international waters commits an offence under the law of Northern Ireland if—
- (a) the information is false in a material particular, and the person either knows it is, or is reckless as to whether it is, or
  - (b) the person intentionally fails to disclose any material particular.
- (3) A relevant officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of an offence under this paragraph.
- (4) A person guilty of an offence under this paragraph is liable on summary conviction to a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both.”

#### Commencement Information

**I97** Sch. 7 para. 10 not in force at Royal Assent, see [s. 87\(1\)](#)

**I98** Sch. 7 para. 10 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, [Sch. 1 para. 22](#) (with Sch. 2 para. 8)

- 11 In paragraph 1(1)—
- (a) omit “immigration officers,” and
  - (b) omit “and enforcement officers”.

#### Commencement Information

**I99** Sch. 7 para. 11 not in force at Royal Assent, see [s. 87\(1\)](#)

**I100** Sch. 7 para. 11 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, [Sch. 1 para. 22](#) (with Sch. 2 para. 8)

- 12 In paragraph 4—
- (a) in sub-paragraph (2) omit “constable or”, and
  - (b) in sub-paragraph (3) omit “constable or”.

#### Commencement Information

**I101** Sch. 7 para. 12 not in force at Royal Assent, see [s. 87\(1\)](#)

**I102** Sch. 7 para. 12 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, [Sch. 1 para. 22](#) (with Sch. 2 para. 8)

- 13 In paragraph 6—
- (a) omit sub-paragraph (5), and
  - (b) in sub-paragraph (6), for the words from “Where” to “the document” substitute “A nationality document that has been seized and retained by a relevant officer”.

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**Commencement Information**

**I103** Sch. 7 para. 13 not in force at Royal Assent, see **s. 87(1)**

**I104** Sch. 7 para. 13 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 14 In paragraph 12(1)—
- (a) omit “immigration officers,” and
  - (b) omit “and enforcement officers”.

**Commencement Information**

**I105** Sch. 7 para. 14 not in force at Royal Assent, see **s. 87(1)**

**I106** Sch. 7 para. 14 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 15 In paragraph 17—
- (a) omit sub-paragraph (5), and
  - (b) in sub-paragraph (6), for the words from “Where” to “the document” substitute “A nationality document that has been seized and retained by a relevant officer”.

**Commencement Information**

**I107** Sch. 7 para. 15 not in force at Royal Assent, see **s. 87(1)**

**I108** Sch. 7 para. 15 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 16 In paragraph 23—
- (a) omit “immigration officers,” and
  - (b) omit “and enforcement officers”.

**Commencement Information**

**I109** Sch. 7 para. 16 not in force at Royal Assent, see **s. 87(1)**

**I110** Sch. 7 para. 16 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 17 In paragraph 26(3) omit “constable or”.

**Commencement Information**

**I111** Sch. 7 para. 17 not in force at Royal Assent, see **s. 87(1)**

**I112** Sch. 7 para. 17 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

- 18 In paragraph 28—
- (a) omit sub-paragraph (5), and
  - (b) in sub-paragraph (6), for the words from “Where” to “the document” substitute “A nationality document that has been seized and retained by a relevant officer”.

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**Commencement Information**

**I113** Sch. 7 para. 18 not in force at Royal Assent, see **s. 87(1)**

**I114** Sch. 7 para. 18 in force at 28.6.2022 by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 22** (with Sch. 2 para. 8)

SCHEDULE 8

Section 47(11)

PRISONERS RETURNING TO THE UK: MODIFICATIONS OF CRIMINAL JUSTICE ACT 2003

**Commencement Information**

**I115** Sch. 8 not in force at Royal Assent, see **s. 87(1)**

**I116** Sch. 8 in force at 28.6.2022 for E.W. by S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 24** (with Sch. 2 para. 9)

This is the Schedule to be inserted after Schedule 19A to the Criminal Justice Act 2003—

“SCHEDULE 19B

Section 261

PRISONERS RETURNING TO THE UK: MODIFICATIONS OF CHAPTER 6 OF PART 12

**Modification of dates for referral to the Board**

- 1 Paragraph 2 applies where section 244ZC(2), 244A(2) or 246A(4) (when read with section 260(4A)) would require the Secretary of State to refer a person’s case to the Board on a day falling before the end of the period of 28 days beginning with the day on which the person is returned to custody.
- 2 The applicable provision is to be read as requiring the Secretary of State to refer the person’s case to the Board at any time up to the end of the period of 28 days beginning with the day on which the person is returned to custody.
- 3 For the purposes of paragraphs 1 and 2, a person returns to custody when the person, having returned to the United Kingdom, is detained (whether or not in prison) in pursuance of their sentence.

**Person removed after Board had directed release but before being released**

- 4 Paragraphs 5 and 6 apply where, before a person’s removal from the United Kingdom—
  - (a) the Board had directed their release under section 244ZC, 244A or 246A, but
  - (b) they had not been released on licence.
- 5 The direction of the Board is to be treated as having no effect.
- 6 The person is to be treated as if—
  - (a) they had been recalled under section 254 on the day on which they returned to the United Kingdom, and
  - (b) they were not suitable for automatic release (see section 255A).

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### **Person removed after referral to the Board but before disposal of the reference**

- 7 Paragraph 8 applies where—
- (a) before a person's removal from prison their case had been referred to the Board under section 244ZB(3), 244ZC(2), 244A(2) or 246A(4), and
  - (b) the reference lapsed under section 260(4B) because the person was removed from the United Kingdom before the Board had disposed of the reference.
- 8 Section 244ZC(2), 244A(2) or 246A(4) (as applicable) is to be read as requiring the Secretary of State to refer the person's case to the Board before the end of the period of 28 days beginning with the day on which the person is returned to custody.
- 9 For the purposes of paragraph 8, a person returns to custody when the person, having returned to the United Kingdom, is detained (whether or not in prison) in pursuance of their sentence.

### **Person removed after having been recalled to prison**

- 10 Paragraphs 11 and 12 apply where, at the time of a person's removal from prison under section 260, the person was in prison following recall under section 254.
- 11 Any direction of the Board made in relation to the person under section 255C or 256A before their return to the United Kingdom is to be treated as having no effect.
- 12 The person is to be treated as if—
- (a) they had been recalled under section 254 on the day on which they returned to the United Kingdom, and
  - (b) they were not suitable for automatic release (see section 255A)."

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 52(7) words inserted by [2023 c. 37 s. 58\(4\)\(a\)](#)
- s. 53(1)(a)(iv) words inserted by [2023 c. 37 s. 58\(4\)\(b\)](#)
- s. 54(6)(a) word omitted by [2023 c. 37 s. 57\(11\)\(a\)](#)
- s. 56(1)(b) substituted by [2023 c. 37 s. 57\(12\)](#)
- s. 6162 excluded by [2023 c. 37 s. 22](#)
- s. 61(2) words inserted by [2023 c. 37 s. 28\(7\)](#)
- s. 62(2) words inserted by [2023 c. 37 s. 28\(8\)](#)
- s. 63(1) word substituted by [2023 c. 37 s. 29\(2\)\(a\)](#)
- s. 63(1) words inserted by [2023 c. 37 s. 29\(2\)\(b\)](#)
- s. 63(3)(f) substituted by [2023 c. 37 s. 29\(4\)\(a\)](#)
- s. 65 excluded by [2023 c. 37 s. 22](#)
- s. 65(3) words inserted by [2023 c. 37 s. 28\(11\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 54(6)(c) and word inserted by [2023 c. 37 s. 57\(11\)\(b\)](#)
- s. 63(2A) inserted by [2023 c. 37 s. 29\(3\)](#)
- s. 63(3)(fa)(fb) inserted by [2023 c. 37 s. 29\(4\)\(b\)](#)
- s. 63(5A)(5B) inserted by [2023 c. 37 s. 29\(5\)](#)
- s. 63(8) inserted by [2023 c. 37 s. 28\(9\)](#)
- s. 65(8A) inserted by [2023 c. 37 s. 28\(12\)](#)