

ILLEGAL IMMIGRATION (OFFENCES) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Illegal Immigration (Offences) Bill as introduced in the House of Commons on 10 February 2020 (Bill 48).

- These Explanatory Notes have been prepared by the Member in Charge, Sir Christopher Chope OBE MP, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice, provide background information on the development of policy and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	3
Policy and legal background	3
Territorial extent and application	4
Commentary on provisions of Bill	4

Overview of the Bill

- 1 The purpose of this Bill is to make provision for criminal sanctions against people who have entered the UK illegally or who have remained in the UK without authority.

Policy and legal background

- 2 A very similar Bill, the [Illegal Immigrants \(Criminal Sanctions\) Bill](#), was introduced by Sir Christopher Chope in the 2015-16 Session. This Bill has an identical long title to the previous Bill except that the current Bill also makes provision ‘for connected purposes’.
- 3 The 2015-16 Bill was debated in the House of Commons at Second Reading on 4th March 2016. In a debate of more than two hours, the Minister responding set out what the then Government was doing to address illegal immigration and deport illegal immigrants.¹ This Bill, like its predecessor, makes the act of entering the United Kingdom without authority a criminal act that would merit deportation, unless the Home Secretary determined that deportation would not be in the public interest and submitted a certificate to the court.
- 4 Problems in immigration enforcement were the subject of a report by the Comptroller and Auditor General entitled ‘Immigration Enforcement’ published on 17th June 2020.² The Public Accounts Committee produced its seventeenth report of the Session 2019-21 (HC 407) on the same matter, in preparation for which it took evidence from the Home Office about immigration enforcement activities.³
- 5 The lack of up-to-date statistics on the number of illegal immigrants in the UK has been the subject of ongoing concern. The Public Accounts Committee stated that “Despite years of public debate and interest in immigration, the Department still does not know the size of the illegal population or have a clear grasp of the harm the illegal population causes. Immigration Enforcement has a vision ‘to reduce the size of the illegal population and the harm it causes’ but it has not estimated what that population is since 2005”.⁴
- 6 When the lack of up to date information about the nature and extent of illegal immigration was raised in the debate on 4th March 2016 the Minister stated that “There are no official estimates of the number of illegal immigrants in the UK because, by definition, the clandestine nature of their presence makes that very hard to estimate”.⁵ He said, however, that the then Government had enacted the Immigration Act 2014 to collect exit data and that “collecting data on those leaving the country will give us a clearer picture of the number of those who enter legally but overstay their visa”.⁶ The Public Accounts Committee found that “The Department was unable to tell us how many people came to the UK legally and did not renew their visa, and how many deliberately

¹ [HC Deb 4 March 2016, cols 1221-1268](#)

² National Audit Office, [Immigration enforcement](#), HC 110, Session 2019–2021, published 17 June 2020

³ Public Accounts Committee, [Immigration enforcement](#), Seventeenth Report of Session 2019–21

⁴ Ibid, p5

⁵ [HC Deb 4 March 2016, col 1263](#)

⁶ Ibid

came here illegally”.⁷

- 7 There is provision in [section 24](#) of the Immigration Act 1971 for criminal sanctions against immigrants who are guilty of offences related to illegal entry or remaining in the UK beyond a period of leave.
- 8 Ministry of Justice figures show that there were a total of 47 convictions for all offences under section 24 of the Immigration Act 1971 in 2019, close to the average of 48 per year between 2013 and 2018.⁸
- 9 The latest Home Office immigration removal statistics show that the number of people subjected to enforced removal and those subject to voluntary return have both continued to decline in recent years, with numbers of each in 2019 around half the levels in 2014.⁹

Territorial extent and application

- 10 Immigration is a reserved matter and, as per Clause 3, this Bill applies to the whole United Kingdom.

Commentary on provisions of Bill

- 11 Clause 1 creates new offences of being present in the United Kingdom, and of entering or attempting to enter the United Kingdom, without legal authority.
- 12 Clause 2 sets penalties for those two offences, with a maximum term of imprisonment of six months. A person guilty of such an offence is subject to a deportation order unless the Secretary of State deems it is against the public interest and submits a certificate to the court.
- 13 Clause 3 provides that the Bill comes into force on the day it is passed. However, the new offences do not have effect until 1 April 2021.

⁷ Public Accounts Committee, [Immigration enforcement](#), Seventeenth Report of Session 2019–21

⁸ Ministry of Justice, [Principal offence proceedings and outcomes by Home Office offence code data tool](#). See also House of Commons written question [UIN 68279](#), answered 9 July 2020.

⁹ Home Office, [Immigration statistics data tables](#), year ending June 2020, returns data

ILLEGAL IMMIGRATION (OFFENCES) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Illegal Immigration (Offences) Bill as introduced in the House of Commons on 10 February 2020 (Bill 48).

Ordered by the House of Commons to be printed, 22 September 2020

© Parliamentary copyright 2020

This publication may be reproduced under the terms of the Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS

These Explanatory Notes relate to the Illegal Immigration (Offences) Bill as introduced in the House of Commons on 10 February 2020 (Bill 48)