

# 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 21 June 2021 (Bill 104).

- 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.

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## 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.
- 3 The 2015-16 Bill was debated in the House of Commons at Second Reading on 4<sup>th</sup> 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.<sup>1</sup> 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 There is provision in [section 24](#) of the Immigration Act 1971 for criminal sanctions against immigrants who people who are guilty of offences related to illegal entry or remaining in the UK beyond a period of leave.
- 5 Ministry of Justice figures show that there were on average 63 prosecutions and 55 convictions for all offences under section 24 of the Immigration Act 1971 in 2019, each year year between 2013 and 2020.<sup>2</sup> The Crown Prosecution Service announced in July 2021 that “passengers of boats and other vehicles should not be prosecuted unless they are repeat offenders or have previously been deported”.<sup>3</sup>
- 6 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. In 2020, numbers of enforced removals and voluntary returns were 25% and 17% of 2014 levels respectively.<sup>4</sup>

## Territorial extent and application

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

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

<sup>2</sup> 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.

<sup>3</sup> Crown Prosecution Service, [CPS publishes updated guidance for handling of illegal entry cases via small boats](#), 8 July 2021.

<sup>4</sup> Home Office, [Immigration statistics data tables](#), year ending June 2021, returns data

## Commentary on provisions of Bill

- 8 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.
- 9 Clause 2 sets out penalties for the offences.
- 10 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.

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