

ILLEGAL IMMIGRATION (OFFENCES) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Illegal Immigration (Offences) Bill introduced in the House of Commons on 20 June 2022 (Bill 104).

- These Explanatory Notes have been prepared by Sir Christopher Chope MP, the member in charge of the Bill, in order to assist the reader of the Bill.
- 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 background

2. Similar Bills—the Illegal Immigrants (Criminal Sanctions) Bill and the Illegal Immigration (Offences) Bill—were introduced by Sir Christopher Chope in the 2015-16 and 2021-2022 Sessions respectively.
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.
4. This Bill, like its predecessors, 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.
5. 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. Section 24 has recently been amended by the Nationality and Borders Act (NABA) 2022 to make provision for new offences (which are not yet in force). Alongside the existing offences, NABA introduces two new offences that can be committed by simple arrival rather than entry.¹
6. Ministry of Justice figures show that there were on average 62 prosecutions and 54 convictions per year for all offences under section 24 of the Immigration Act 1971 between 2013 and 2021.²
7. 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”.³
8. 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 the year ending June 2022, the numbers of enforced removals and voluntary returns were 23% and 29% of year ending 2014 levels respectively.⁴

¹ [Immigration | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk/immigration)

² Sources: MoJ, [Criminal justice system statistics quarterly: December 2020](#), 'Principal offence proceedings and outcomes by Home Office offence code data tool' and MoJ, [Criminal Justice System statistics quarterly: December 2021](#), 'All-offence prosecutions and convictions by Home Office offence code data tool'

³ Crown Prosecution Service, CPS publishes updated guidance for handling of illegal entry cases via small boats, 8 July 2021

⁴ [Returns and detention datasets - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/datasets/returns-and-detention-datasets)

Territorial extent and application

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

Commentary on provisions of Bill

10. 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.
11. Clause 2 sets out penalties for the offences.
12. 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 2023.

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Ordered by the House of Commons to be printed, 30 November 2022

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