

Status: This version of this provision is prospective.

Changes to legislation: Nationality and Borders Act 2022, Section 76 is up to date with all changes known to be in force on or before 19 April 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



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 6

MISCELLANEOUS

PROSPECTIVE

76 Liability of carriers

(1) Section 40 of the Immigration and Asylum Act 1999 (liability of carriers in respect of passengers) is amended in accordance with subsections (2) to (8).

(2) For subsection (1) substitute—

“(1) The Secretary of State may charge the owner of a ship or aircraft the sum of £2,000 where—

- (a) an individual who would not, on arrival in the United Kingdom, be entitled to enter without leave arrives by travelling on the ship or aircraft, and
- (b) at least one of the Cases set out in subsections (1A) to (1C) applies.

(1A) Case 1 is where, on being required to do so by an immigration officer, the individual fails to produce an immigration document which is valid and which satisfactorily establishes the individual’s identity and the individual’s nationality or citizenship.

(1B) Case 2 is where—

- (a) the individual requires an entry clearance,
- (b) an entry clearance in electronic form of the required kind has not been granted, and
- (c) if required to do so by an immigration officer, the individual fails to produce an entry clearance in documentary form of the required kind.

(1C) Case 3 is where—

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- (a) the individual was required not to travel to the United Kingdom unless the individual had an authorisation in electronic form (“an ETA”) under immigration rules made by virtue of section 11C of the Immigration Act 1971 that was valid for the individual’s journey to the United Kingdom, and
 - (b) the individual did not have such an ETA.”
- (3) Omit subsection (2).
- (4) In subsection (4), for the words from “No charge” to “documents” substitute “No charge shall be payable on the basis that Case 1 applies in respect of any individual if the owner provides evidence that the individual produced an immigration document of the kind mentioned in subsection (1A)”.
- (5) After subsection (4) insert—
- “(4A) No charge shall be payable on the basis that Case 2 applies in respect of any individual if the owner provides evidence that—
- (a) the individual produced an entry clearance in documentary form of the required kind to the owner or an employee or agent of the owner when embarking on the ship or aircraft for the voyage or flight to the United Kingdom,
 - (b) the owner or an employee or agent of the owner reasonably believed, on the basis of information provided by the Secretary of State in respect of the individual, that the individual did not require an entry clearance of the kind in question,
 - (c) the owner or an employee or agent of the owner reasonably believed, on the basis of information provided by the Secretary of State, that an entry clearance in electronic form of the required kind had been granted, or
 - (d) the owner or an employee or agent of the owner was unable to establish whether an entry clearance in electronic form of the required kind had been granted in respect of the individual and had a reasonable excuse for being unable to do so.
- (4B) No charge shall be payable on the basis that Case 3 applies in respect of any individual if the owner provides evidence that the owner or an employee or agent of the owner—
- (a) reasonably believed, on the basis of information provided by the Secretary of State in respect of the individual, that the individual was not required to have an ETA that was valid for the individual’s journey to the United Kingdom,
 - (b) reasonably believed, on the basis of information provided by the Secretary of State, that the individual had such an ETA, or
 - (c) was unable to establish whether the individual had such an ETA and had a reasonable excuse for being unable to do so.”
- (6) In subsection (5), for “subsection (4)” substitute “subsection (4) or (4A)(a)”.
- (7) In subsection (6), for “a visa”, in the first two places it occurs, substitute “an entry clearance”.
- (8) In subsection (10), for “subsection (2)” substitute “subsection (1)”.

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(9) In consequence of the amendments made by this section—

- (a) for the heading of section 40 of the Immigration and Asylum Act 1999 substitute “Charge in respect of individual without proper documents or authorisation”;
- (b) for the italic heading before section 40 of that Act substitute “Individuals without proper documents or authorisation”.

Commencement Information

II S. 76 not in force at Royal Assent, see [s. 87\(1\)](#)

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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\(12\)](#)