

*These notes refer to the Immigration and Asylum Act 1999
(c.33) which received Royal Assent on 11 November 1999*

IMMIGRATION AND ASYLUM ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part II: Carriers' liability

Section 34: Defences to claim that penalty is due under section 32

123. This section applies to persons (referred to as carriers) who are alleged to be liable to a penalty under section 32.
124. Subsections (2) and (3) provide a carrier with defences against the allegation that he is liable to a penalty. It is a defence if the carrier can show that he or a relevant employee acted under duress (eg that he had been threatened with a gun). Alternatively, he will have a defence where he can show that he did not know and had no reasonable grounds for suspecting that he was carrying a clandestine entrant, that there was an effective system in operation for preventing the carriage of illegal entrants and that the person responsible for operating the system, for example the driver, had done so properly.
125. Subsections (5) and (6) provide for those instances where more than one person is responsible for a clandestine. If one of them has a defence under subsection (3), this will not affect the liability of others. However, should the defence be under subsection (2) (the defence of duress) then the liability of any other responsible person is also discharged.