# Immigration and Asylum Act 1999

**1999 CHAPTER 33**

## PART II

CARRIERS' LIABILITY

***[F1 Penalties for failure to secure goods vehicle and for carrying clandestine entrants]***

### 35 Procedure.

(1) If the Secretary of State decides that a person ("P") is liable to one or more penalties under section **[F1** 31A or**]** 32, he must notify P of his decision.

(2) A notice under subsection (1) (a "penalty notice") must—

(a) state the Secretary of State's reasons for deciding that P is liable to the penalty (or penalties);

(b) state the amount of the penalty (or penalties) to which P is liable;

(c) specify the date before which, and the manner in which, the penalty (or penalties) must be paid; **[F2** and**]**

(d) include an explanation of the steps—

(i) that P **[F3** must**][F3** may**]** take if he objects to the penalty;

(ii) that the Secretary of State may take under this Part to recover any unpaid penalty **[F4** and

(e) be issued before the end of such period as may be prescribed.**]**

**[F5** (3) **[F6** Subsection (4) applies where a person to whom a penalty notice is issued objects on the ground that—

(a) he is not liable to the imposition of a penalty, or

(b) the amount of the penalty is too high.**]**

(4) The person may give a notice of objection to the Secretary of State.

(5) A notice of objection must—

(a) be in writing,

***Changes to legislation:*** *Immigration and Asylum Act 1999, Section 35 is up to date with all changes known to be in force on or before 23 June 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*

(b) give the objector's reasons, and

(c) be given before the end of such period as may be prescribed.

(6) Where the Secretary of State receives a notice of objection to a penalty in accordance with this section he shall consider it and—

(a) cancel the penalty,

(b) reduce the penalty,

(c) increase the penalty, or

(d) determine to take no action under paragraphs (a) to (c).

(7) Where the Secretary of State considers a notice of objection under subsection (6) he shall—

(a) inform the objector of his decision before the end of such period as may be prescribed or such longer period as he may agree with the objector,

(b) if he increases the penalty, issue a new penalty notice under subsection (1), and

(c) if he reduces the penalty, notify the objector of the reduced amount.**]**

(9) The Secretary of State may by regulations provide, in relation to detached trailers, for a penalty notice which is **[**[F7]served**][**[F7]issued **]** in such manner as may be prescribed to have effect as a penalty notice properly **[**[F8]served on**][**[F8]issued to**]** the responsible person or persons concerned under this section.

(10) Any sum payable to the Secretary of State as a penalty under section **[**[F9]31A or**]** 32 may be recovered by the Secretary of State as a debt due to him.

**[**[F10](11) In proceedings for enforcement of a penalty under subsection (10) no question may be raised as to—

(a) liability to the imposition of the penalty, or

(b) its amount.

(12) A document which is to be issued to or served on a person outside the United Kingdom for the purpose of subsection (1) or (7) or in the course of proceedings under subsection (10) may be issued or served—

(a) in person,

(b) by post,

(c) by facsimile transmission, **[**[F11]or**]**

[F12](ca) **[** by electronic mail, or**]**

(d) in another prescribed manner.

(13) The Secretary of State may by regulations provide that a document issued or served in a manner listed in subsection (12) in accordance with the regulations is to be taken to have been received at a time specified by or determined in accordance with the regulations.**]**

**Textual Amendments**

**F1** Words in s. 35(1) inserted (28.4.2022 for specified purposes, 13.2.2023 for specified purposes) by Nationality and Borders Act 2022 (c. 36), s. 87(1)(4)(c), **Sch. 5 para. 8(3)**; S.I. 2023/33, reg. 2(1)(c)(iii)(2) (with reg. 4)

**F2** Word in s. 35(2)(c) omitted (28.4.2022 for specified purposes, 13.2.2023 for specified purposes) by virtue of Nationality and Borders Act 2022 (c. 36), s. 87(1)(4)(c), **Sch. 5 para. 8(4)(a)**; S.I. 2023/33, reg. 2(1)(c)(iii)(2) (with reg. 4)

**F3** Word in s. 35(2)(d)(i) substituted (14.11.2002 for certain purposes, 8.12.2002 for certain further purposes, 11.5.2012 for specified purposes, 13.2.2023 for specified purposes) by Nationality, Immigration and Asylum Act 2002 (c. 41), s. 162(1), **Sch. 8 para. 7(2)** (with s. 159); S.I. 2002/2811, **art. 2**, Sch. (with art. 4); S.I. 2012/1263, art. 2; S.I. 2023/32, art. 2(1)(b)(2)

**F4** S. 35(2)(e) and word inserted (28.4.2022 for specified purposes, 13.2.2023 for specified purposes) by Nationality and Borders Act 2022 (c. 36), s. 87(1)(4)(c), **Sch. 5 para. 8(4)(b)**; S.I. 2023/33, reg. 2(1)(c)(iii)(2) (with reg. 4)

**F5** S. 35(3)-(7) substituted for s. 35(3)-(8) (14.11.2002 for certain purposes, 8.12.2002 for certain further purposes, 11.5.2012 for specified purposes, 13.2.2023 for specified purposes) by Nationality, Immigration and Asylum Act 2002 (c. 41), s. 162(1), **Sch. 8 para. 7(3)** (with s. 159); S.I. 2002/2811, **art. 2**, Sch. (with art. 4); S.I. 2012/1263, art. 2; S.I. 2023/32, art. 2(1)(b)(2)

**F6** S. 35(3) omitted (28.4.2022 for specified purposes) by virtue of Nationality and Borders Act 2022 (c. 36), s. 87(1)(4)(c), **Sch. 5 para. 8(2)**

**F7** Word in s. 35(9) substituted (4.11.2002 for certain purposes, 8.12.2002 for certain further purposes, 11.5.2012 for specified purposes, 13.2.2023 for specified purposes) by Nationality, Immigration and Asylum Act 2002 (c. 41), s. 162(1), **Sch. 8 para. 7(4)(a)** (with s. 159); S.I. 2002/2811, **art. 2**, Sch. (with art. 4); S.I. 2012/1263, art. 2; S.I. 2023/32, art. 2(1)(b)(2)

**F8** Word in s. 35(9) substituted (4.11.2002 for certain purposes, 8.12.2002 for certain further purposes, 11.5.2012 for specified purposes, 13.2.2023 for specified purposes) by Nationality, Immigration and Asylum Act 2002 (c. 41), s. 162(1), **Sch. 8 para. 7(4)(b)** (with s. 159); S.I. 2002/2811, **art. 2**, Sch. (with art. 4); S.I. 2012/1263, art. 2; S.I. 2023/32, art. 2(1)(b)(2)

**F9** Words in s. 35(10) inserted (28.4.2022 for specified purposes, 13.2.2023 for specified purposes) by Nationality and Borders Act 2022 (c. 36), s. 87(1)(4)(c), **Sch. 5 para. 8(5)**; S.I. 2023/33, reg. 2(1)(c)(iii)(2) (with reg. 4)

**F10** S. 35(11)-(13) added (14.11.2002 for specified purposes, 8.12.2002 for specified purposes, 11.5.2012 for specified purposes, 13.2.2023 for specified purposes) by Nationality, Immigration and Asylum Act 2002 (c. 41), s. 162(1), **Sch. 8 para. 7(5)** (with s. 159); S.I. 2002/2811, **art. 2**, Sch. (with art. 4); S.I. 2012/1263, art. 2; S.I. 2023/32, art. 2(1)(b)(2)

**F11** Word in s. 35(12)(c) omitted (28.4.2022 for specified purposes, 13.2.2023 for specified purposes) by virtue of Nationality and Borders Act 2022 (c. 36), s. 87(1)(4)(c), **Sch. 5 para. 8(6)(a)**; S.I. 2023/33, reg. 2(1)(c)(iii)(2) (with reg. 4)

**F12** S. 35(12)(ca) inserted (28.4.2022 for specified purposes, 13.2.2023 for specified purposes) by Nationality and Borders Act 2022 (c. 36), s. 87(1)(4)(c), **Sch. 5 para. 8(6)(b)**; S.I. 2023/33, reg. 2(1)(c)(iii)(2) (with reg. 4)

## Modifications etc. (not altering text)

**C1** S. 35(1)(2)(6)-(8)(10) applied (with modifications) (7.2.2001 for certain purposes and otherwise 1.3.2001) by S.I. 2001/280, **arts. 1-4** (with art. 5)

## Commencement Information

**I1** S. 35 partly in force; s. 35 not in force at Royal Assent, see s. 170(4); s. 35(7)-(9) in force for certain purposes at 6.12.1999 by S.I. 1999/3190, art. 2, Sch.; s. 35 in force for certain purposes at: 3.4.2000 by S.I. 2000/464, art. 2, Sch.; 18.9.2000 by S.I. 2000/2444, art. 2, Sch. 1 (subject to arts. 3, 4, Sch. 2); 8.12.2002 by S.I. 2002/2815, **art. 2**, Sch.

**I2** S. 35 in force at 13.2.2023 for specified purposes by S.I. 2023/34, **art. 2**

**Changes to legislation:**
Immigration and Asylum Act 1999, Section 35 is up to date with all changes known to be in force on or before 23 June 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.
View outstanding changes

**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. 10(12) inserted by 2023 c. 37 s. 10(6)
- s. 40(1)-(1C) substituted for s. 40(1) by 2022 c. 36 s. 76(2)
- s. 40(4A)(4B) inserted by 2022 c. 36 s. 76(5)
- s. 72(10) repealed by 2004 c. 19 Sch. 4
- s. 94(2A)-(2C) inserted by 2016 c. 19 Sch. 11 para. 3(3)
- s. 94(2D) inserted by 2016 c. 19 Sch. 11 para. 7(4)
- s. 94(3)(3A) substituted for s. 94(3) by 2002 c. 41 s. 44(4) (This amendment is repealed (prosp.) by 2016 c. 19, Sch. 11 para. 41)
- s. 94(3A)-(3D) inserted by 2016 c. 19 Sch. 11 para. 3(5)
- s. 95A inserted by 2016 c. 19 Sch. 11 para. 9
- s. 96(1A) inserted by 2016 c. 19 Sch. 11 para. 10(3)
- s. 97(3A)(b)(iv) inserted by 2022 c. 36 s. 13(2)(c)(ii)
- s. 97(8)(9) inserted by 2016 c. 19 Sch. 11 para. 11(4)
- s. 98A inserted by 2016 c. 19 Sch. 11 para. 13
- s. 98A(5) inserted by 2022 c. 36 s. 13(4)
- s. 103(4)(a) words substituted by 2004 c. 19 s. 10(4)(b)
- s. 103(5)(b) word substituted by S.I. 2008/2833 Sch. 3 para. 183(ii)
- s. 103A(1) words substituted by 2004 c. 19 s. 10(5)
- s. 103A(1) heading words substituted by 2004 c. 19 s. 10(5)
- s. 103A(1) words substituted by S.I. 2008/2833 Sch. 3 para. 184
- s. 125(2)(ba) inserted by 2016 c. 19 Sch. 11 para. 22(3)(b)
- s. 146(2)(za) inserted by 2016 c. 19 s. 44(9)
- s. 166(5)(ca) substituted for word in s. 166(5)(c) by 2016 c. 19 Sch. 11 para. 24(2)
- s. 166(5A)(5B) inserted by 2016 c. 19 Sch. 11 para. 24(3)
- s. 166(6)(aa) substituted for word in s. 166(6)(a) by 2016 c. 19 Sch. 11 para. 24(4)
- Sch. 2 para. 21 modified by 2002 c. 41 s. 23(2)(a)
- Sch. 3 para. 2(5) modified by 2002 c. 41 s. 23(2)(b)