
Changes to legislation: Nationality, Immigration and Asylum Act 2002, Paragraph 2 is up to date with all changes known to be in force on or before 23 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

SCHEDULES

SCHEDULE 8

CARRIERS’ LIABILITY

- 2 (1) Section 32 (penalty for carrying clandestine entrant) shall be amended as follows.
- (2) After subsection (1)(a) insert—
- “(aa) he arrives in the United Kingdom concealed in a rail freight wagon,”.
- (3) For subsection (2) substitute—
- “(2) The Secretary of State may require a person who is responsible for a clandestine entrant to pay—
- (a) a penalty in respect of the clandestine entrant;
- (b) a penalty in respect of any person who was concealed with the clandestine entrant in the same transporter.
- (2A) In imposing a penalty under subsection (2) the Secretary of State—
- (a) must specify an amount which does not exceed the maximum prescribed for the purpose of this paragraph,
- (b) may, in respect of a clandestine entrant or a concealed person, impose separate penalties on more than one of the persons responsible for the clandestine entrant, and
- (c) may not impose penalties in respect of a clandestine entrant or a concealed person which amount in aggregate to more than the maximum prescribed for the purpose of this paragraph.”
- (4) For subsection (4) substitute—
- “(4) Where a penalty is imposed under subsection (2) on the driver of a vehicle who is an employee of the vehicle’s owner or hirer—
- (a) the employee and the employer shall be jointly and severally liable for the penalty imposed on the driver (irrespective of whether a penalty is also imposed on the employer), and
- (b) a provision of this Part about notification, objection or appeal shall have effect as if the penalty imposed on the driver were also imposed on the employer (irrespective of whether a penalty is also imposed on the employer in his capacity as the owner or hirer of the vehicle).
- (4A) In the case of a detached trailer, subsection (4) shall have effect as if a reference to the driver were a reference to the operator.”
- (5) In subsection (5)—
- (a) in paragraph (a) for the second “or” substitute “ and ”, and
- (b) in paragraphs (b) and (c) for “or” substitute “ and ”.
- (6) After subsection (5) insert—

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“(5A) In the case of a clandestine entrant to whom subsection (1)(aa) applies, the responsible person is—

- (a) where the entrant arrived concealed in a freight train, the train operator who, at the train’s last scheduled stop before arrival in the United Kingdom, was responsible for certifying it as fit to travel to the United Kingdom, or
- (b) where the entrant arrived concealed in a freight shuttle wagon, the operator of the shuttle-train of which the wagon formed part.”

(7) In subsection (6)(a) and (b) for “or” substitute “ and ”.

(8) After subsection (6) insert—

“(6A) Where a person falls within the definition of responsible person in more than one capacity, a separate penalty may be imposed on him under subsection (2) in respect of each capacity.”

Commencement Information

- I1** Sch. 8 para. 2 partly in force; Sch. 8 para. 2 not in force at Royal Assent see s. 162(2); Sch. 8 para. 2 in force at 14.11.2002 and 8.12.2002 for certain purposes by [S.I. 2002/2811](#), [art. 2](#), [Sch.](#)
- I2** Sch. 8 para. 2 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263](#), [art. 2](#)
- I3** [Sch. 8 para. 2](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32](#), [art. 2\(1\)\(b\)\(2\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(1)(1A) substituted for s. 18(1) by [2016 c. 19 Sch. 11 para. 31\(2\)](#)
- s. 22A inserted by [2022 c. 36 s. 13\(7\)](#)
- s. 27(ba) inserted by [2022 c. 36 s. 13\(10\)](#)
- s. 51(2)(d) and word inserted by [2016 c. 19 Sch. 11 para. 26\(6\)](#)
- s. 55(2)(aa) inserted by [2016 c. 19 Sch. 11 para. 26\(7\)](#)
- s. 62(3A) inserted by [2023 c. 37 s. 11\(8\)](#)
- s. 80A(5A) inserted by [2023 c. 37 s. 10\(8\)](#)
- s. 82A inserted by [2022 c. 36 s. 23\(1\)](#)
- s. 94(6B) inserted by [2006 c. 13 s. 13](#)
- s. 106(2)(ua) inserted by [2007 c. 30 s. 19\(3\)](#)
- s. 107(2A) inserted by [2022 c. 36 Sch. 3 para. 5\(a\)](#)
- s. 126(2A) inserted by [S.I. 2019/745 reg. 12\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 12(2)(3) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 3 para. 1(1)(ga) inserted by [2016 c. 19 Sch. 12 para. 2\(2\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(a))
- Sch. 3 para. 1(2A) inserted by [2016 c. 19 Sch. 12 para. 2\(4\)](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(b))
- Sch. 3 para. 1A inserted by [2016 c. 19 Sch. 12 para. 3](#)
- Sch. 3 para. 2(1)(ca) inserted by [2016 c. 19 Sch. 12 para. 4\(3\)](#)
- Sch. 3 para. 2A inserted by [2016 c. 19 Sch. 12 para. 5](#)
- Sch. 3 para. 3A-3C inserted by [2016 c. 19 Sch. 12 para. 6](#)
- Sch. 3 para. 7B7C and cross-headings inserted by [2016 c. 19 Sch. 12 para. 9](#)
- Sch. 3 para. 10A10B inserted by [2016 c. 19 Sch. 12 para. 10](#) (This Act is amended by S.I. 2020/1309, Sch. 1 para. 3(c))
- Sch. 3 para. 15(aa) inserted by [2016 c. 19 Sch. 12 para. 14\(2\)](#)
- Sch. 3 para. 15(d)-(f) inserted by [2016 c. 19 Sch. 12 para. 14\(4\)](#)
- Sch. 3 para. 7C(1)(c) word substituted by [S.I. 2019/745 reg. 12\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 12(5)(a)(c)(d) omitted immediately before IP completion day by virtue of S.I. 2020/1309, regs. 1(2)(a), 48)
- Sch. 5 para. 3(1) Sch. 5 para. 3 renumbered as Sch. 5 para. 3(1) by [2005 c. 4 Sch. 4 para. 407\(2\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(2)-(4) inserted by [2005 c. 4 Sch. 4 para. 407\(4\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))
- Sch. 5 para. 3(1) words inserted by [2005 c. 4 Sch. 4 para. 407\(3\)](#) (This amendment not applied to legislation.gov.uk. The "original amending provision" is already fully in force, see Sch. 4 paras. 361, 407(5))