



# Immigration and Asylum Act 1999

## 1999 CHAPTER 33

### PART II

#### CARRIERS' LIABILITY

##### *Clandestine entrants*

#### **34 Defences to claim that penalty is due under section 32**

- (1) This section applies if it is alleged that a person ("the carrier") is liable to a penalty under section 32.
- (2) It is a defence for the carrier to show that he, or an employee of his who was directly responsible for allowing the clandestine entrant to be concealed, was acting under duress.
- (3) It is also a defence for the carrier to show that—
  - (a) he did not know, and had no reasonable grounds for suspecting, that a clandestine entrant was, or might be, concealed in the transporter;
  - (b) an effective system for preventing the carriage of clandestine entrants was in operation in relation to the transporter; and
  - (c) that on the occasion in question the person or persons responsible for operating that system did so properly.
- (4) In determining, for the purposes of this section, whether a particular system is effective, regard is to be had to the code of practice issued by the Secretary of State under section 33.
- (5) If there are two or more persons responsible for a clandestine entrant, the fact that one or more of them has a defence under subsection (3) does not affect the liability of the others.
- (6) But if a person responsible for a clandestine entrant has a defence under subsection (2), the liability of any other person responsible for that entrant is discharged.