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**Changes to legislation:** Nationality and Borders Act 2022, Paragraph 3 is up to date with all changes known to be in force on or before 17 August 2023. 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

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## SCHEDULES

### SCHEDULE 5

#### PENALTY FOR FAILURE TO SECURE GOODS VEHICLE ETC

3 Before section 32 (but after the italic heading before that section) insert—

**“31A Penalty for failure to secure goods vehicle etc**

- (1) The Secretary of State may impose a penalty on a person responsible for a goods vehicle which has arrived at a place mentioned in subsection (2) if—
  - (a) on its arrival at that place, the vehicle is not adequately secured against unauthorised access (see subsection (4)(a)), and
  - (b) the person has not taken the actions specified in regulations under subsection (4)(b) as actions to be taken by that person in relation to the securing of the vehicle against unauthorised access before or during its journey to that place.
- (2) Those places are—
  - (a) a place where immigration control is operated, and
  - (b) in a case where the vehicle previously arrived at a place outside the United Kingdom where immigration control is operated and then journeyed to a place in the United Kingdom, that place in the United Kingdom.
- (3) A penalty may be imposed under subsection (1) regardless of whether any person has obtained unauthorised access to the vehicle during its journey to the place mentioned in subsection (2).
- (4) The Secretary of State must specify in regulations for the purposes of subsection (1)—
  - (a) what is meant by a goods vehicle being adequately secured against unauthorised access, and
  - (b) the actions to be taken by each person responsible for a goods vehicle in relation to the securing of the vehicle against unauthorised access.
- (5) The actions that may be specified in regulations under subsection (4)(b) include, in particular—
  - (a) actions in relation to checking a person has not gained unauthorised access to the vehicle,
  - (b) actions in relation to the reporting of any unauthorised access to the vehicle, and
  - (c) actions in relation to the keeping of records to establish that other actions specified in the regulations have been taken.

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- (6) Before making regulations under subsection (4), the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (7) In imposing a penalty under subsection (1), the Secretary of State—
  - (a) must specify an amount which does not exceed the maximum prescribed for the purpose of this paragraph,
  - (b) may impose separate penalties on more than one of the persons responsible for a goods vehicle, and
  - (c) may not impose penalties which amount in aggregate to more than the maximum prescribed for the purpose of this paragraph.
- (8) A penalty imposed under subsection (1) must be paid to the Secretary of State before the end of the prescribed period.
- (9) A person is not liable to the imposition of a penalty under subsection (1) if that person's failure to take the actions specified in regulations under subsection (4)(b) was as a result of duress.
- (10) If a penalty is imposed under subsection (1) in relation to the arrival of a goods vehicle in a place outside the United Kingdom where immigration control is operated, a penalty may not be imposed in relation to the vehicle's arrival in the United Kingdom as part of the same journey.
- (11) A penalty may not be imposed on a person under subsection (1) if a penalty is imposed on that person under section 32(2) in respect of the same circumstances.
- (12) Where a penalty is imposed under subsection (1) on a person who is the driver of a goods vehicle pursuant to a contract (whether or not a contract of employment) with a person ("P") who is the vehicle's owner or hirer—
  - (a) the driver and P are jointly and severally liable for the penalty imposed on the driver (whether or not a penalty is also imposed on P), and
  - (b) a provision of this Part about notification, objection or appeal has effect as if the penalty imposed on the driver were also imposed on P (whether or not a penalty is also imposed on P in P's capacity as the owner or hirer of the vehicle).
- (13) In the case of a detached trailer, subsection (12) has effect as if a reference to the driver were a reference to the operator.
- (14) For the purposes of this section the persons responsible for a goods vehicle are—
  - (a) if the goods vehicle is a detached trailer, the owner, hirer and operator of the trailer, and
  - (b) if it is not, the owner, hirer and driver of the vehicle.
- (15) Where by virtue of subsection (14) a person is responsible for a goods vehicle in more than one capacity, a separate penalty may be imposed on the person under subsection (1) in respect of each capacity.
- (16) In this section "immigration control" means United Kingdom immigration control and includes any United Kingdom immigration control operated in a prescribed control zone outside the United Kingdom."

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#### Commencement Information

- I1** Sch. 5 para. 3 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)
- I2** [Sch. 5 para. 3](#) in force at 13.2.2023 in so far as not already in force by [S.I. 2023/33](#), [reg. 2\(1\)\(b\)](#) (with [reg. 4](#))

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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\(12\)](#)