
Changes to legislation: Nationality and Borders Act 2022, Paragraph 4 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

SCHEDULES

SCHEDULE 5

PENALTY FOR FAILURE TO SECURE GOODS VEHICLE ETC

- 4 (1) Section 32 (penalty for carrying clandestine entrants) is amended as follows.
- (2) After subsection (2A) insert—
- “(2B) The Secretary of State may reduce the amount of a penalty under this section if the responsible person can show that they took the actions specified in regulations under subsection (2C) in relation to the securing of the transporter against unauthorised access.
- (2C) The Secretary of State must specify in regulations the actions that a responsible person must have taken in order to be eligible for a reduction in the amount of a penalty.
- (2D) The actions that may be specified in regulations under subsection (2C) include, in particular—
- (a) actions in relation to checking a person has not gained unauthorised access to the transporter,
 - (b) actions in relation to the reporting of any unauthorised access to the transporter, and
 - (c) actions in relation to the keeping of records to establish that other actions specified in the regulations have been taken.
- (2E) Before making regulations under subsection (2C), the Secretary of State must consult such persons as the Secretary of State considers appropriate.”
- (3) For subsection (4) substitute—
- “(4) Where a penalty is imposed under subsection (2) on a person who is the driver of a 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).”
- (4) After subsection (6A) insert—
- “(6B) A penalty may not be imposed on a person under subsection (2) if a penalty is imposed on that person under section 31A(1) in respect of the same circumstances.”

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Commencement Information

- I1** Sch. 5 para. 4 in force at Royal Assent for specified purposes, see [s. 87\(1\)\(4\)\(c\)](#)
- I2** [Sch. 5 para. 4](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/33](#), [reg. 2\(1\)\(c\)\(i\)\(2\)](#) (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\(12\)](#)