

Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 8 is up to date with all changes known to be in force on or before 08 May 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

Section 125

CARRIERS’ LIABILITY

1 The Immigration and Asylum Act 1999 (c. 33) shall be amended as follows.

Commencement Information

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

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).

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(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—

“(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

- I4** 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.](#)
- I5** Sch. 8 para. 2 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263](#), [art. 2](#)
- I6** [Sch. 8 para. 2](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32](#), [art. 2\(1\)\(b\)\(2\)](#)

3

After section 32 insert—

“32A Level of penalty: code of practice

- (1) The Secretary of State shall issue a code of practice specifying matters to be considered in determining the amount of a penalty under section 32.
- (2) The Secretary of State shall have regard to the code (in addition to any other matters he thinks relevant)—
 - (a) when imposing a penalty under section 32, and
 - (b) when considering a notice of objection under section 35(4).
- (3) Before issuing the code the Secretary of State shall lay a draft before Parliament.
- (4) After laying the draft code before Parliament the Secretary of State may bring the code into operation by order.
- (5) The Secretary of State may from time to time revise the whole or any part of the code and issue the code as revised.

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(6) Subsections (3) and (4) also apply to a revision or proposed revision of the code.”

Commencement Information

- I7** Sch. 8 para. 3 partly in force; Sch. 8 para. 3 not in force at Royal Assent see s. 162(2); Sch. 8 para. 3 in force at 14.11.2002 and 8.12.2002 for certain purposes by [S.I. 2002/2811, art. 2, Sch.](#)
- I8** Sch. 8 para. 3 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263, art. 2](#)
- I9** [Sch. 8 para. 3](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32, art. 2\(1\)\(b\)\(2\)](#)

4 The heading of section 33 (code of practice) becomes “ Prevention of clandestine entrants: code of practice ”.

Commencement Information

- I10** Sch. 8 para. 4 partly in force; Sch. 8 para. 4 not in force at Royal Assent see s. 162(2); Sch. 8 para. 4 in force at 8.12.2002 for certain purposes by [S.I. 2002/2811, art. 2, Sch.](#)
- I11** Sch. 8 para. 4 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263, art. 2](#)
- I12** [Sch. 8 para. 4](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32, art. 2\(1\)\(b\)\(2\)](#)

5 In section 33(2)(b) omit “both Houses of”.

Commencement Information

- I13** Sch. 8 para. 5 partly in force; Sch. 8 para. 5 not in force at Royal Assent see s. 162(2); Sch. 8 para. 5 in force at 8.12.2002 for certain purposes by [S.I. 2002/2811, art. 2, Sch.](#)
- I14** Sch. 8 para. 5 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263, art. 2](#)
- I15** [Sch. 8 para. 5](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32, art. 2\(1\)\(b\)\(2\)](#)

6 (1) Section 34 (defence) shall be amended as follows.

(2) For subsection (1) substitute—

“(1) A person (“the carrier”) shall not be liable to the imposition of a penalty under section 32(2) if he has a defence under this section.”

(3) In subsection (3)(c) omit the first “that”.

(4) After subsection (3) insert—

“(3A) It is also a defence for the carrier to show that—

- (a) he knew or suspected that a clandestine entrant was or might be concealed in a rail freight wagon, having boarded after the wagon began its journey to the United Kingdom;
- (b) he could not stop the train or shuttle-train of which the wagon formed part without endangering safety;
- (c) an effective system for preventing the carriage of clandestine entrants was in operation in relation to the train or shuttle-train; and
- (d) on the occasion in question the person or persons responsible for operating the system did so properly.”

(5) Omit subsection (5).

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(6) For subsection (6) substitute—

“(6) Where a person has a defence under subsection (2) in respect of a clandestine entrant, every other responsible person in respect of the clandestine entrant is also entitled to the benefit of the defence.”

Commencement Information

- I16** Sch. 8 para. 6 partly in force; Sch. 8 para. 6 not in force at Royal Assent see s. 162(2); Sch. 8 para. 6 in force at 8.12.2002 for certain purposes by [S.I. 2002/2811, art. 2, Sch.](#)
- I17** Sch. 8 para. 6 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263, art. 2](#)
- I18** [Sch. 8 para. 6](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32, art. 2\(1\)\(b\)\(2\)](#)

7 (1) Section 35 (notification and objection) shall be amended as follows.

(2) In subsection (2)(d)(i) for “must” substitute “ may ”.

(3) For subsections (3) to (8) substitute—

“(3) 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,
- (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.”

(4) In subsection (9)—

- (a) for the first “served” substitute “ issued ”, and
- (b) for “served on” substitute “ issued to ”.

(5) At the end add—

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- “(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, 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.”

Commencement Information

- I19** Sch. 8 para. 7 partly in force; Sch. 8 para. 7 not in force at Royal Assent see s. 162(2); Sch. 8 para. 7 in force at 14.11.2002 and 8.12.2002 for certain purposes by [S.I. 2002/2811, art. 2](#), [Sch.](#)
- I20** Sch. 8 para. 7 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263, art. 2](#)
- I21** [Sch. 8 para. 7](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32, art. 2\(1\)\(b\)\(2\)](#)

8 After section 35 insert—

“35A Appeal

- (1) A person may appeal to the court against a penalty imposed on him under section 32 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.
- (2) On an appeal under this section the court may—
- (a) allow the appeal and cancel the penalty,
 - (b) allow the appeal and reduce the penalty, or
 - (c) dismiss the appeal.
- (3) An appeal under this section shall be a re-hearing of the Secretary of State’s decision to impose a penalty and shall be determined having regard to—
- (a) any code of practice under section 32A which has effect at the time of the appeal,
 - (b) the code of practice under section 33 which had effect at the time of the events to which the penalty relates, and
 - (c) any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware).
- (4) Subsection (3) has effect despite any provision of Civil Procedure Rules.

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- (5) An appeal may be brought by a person under this section against a penalty whether or not—
- (a) he has given notice of objection under section 35(4);
 - (b) the penalty has been increased or reduced under section 35(6).”

Commencement Information

- I22** Sch. 8 para. 8 partly in force; Sch. 8 para. 8 not in force at Royal Assent see s. 162(2); Sch. 8 para. 8 in force at 8.12.2002 for certain purposes by [S.I. 2002/2811](#), [art. 2](#), [Sch.](#)
- I23** Sch. 8 para. 8 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263](#), [art. 2](#)
- I24** [Sch. 8 para. 8](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32](#), [art. 2\(1\)\(b\)\(2\)](#)

- 9 (1) Section 36 (detention of vehicle) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “given” substitute “ issued ”,
 - (b) after paragraph (b) omit “or”, and
 - (c) after paragraph (c) insert “or
 - (d) rail freight wagon.”.
- (3) After subsection (2) insert—
- “(2A) A vehicle may be detained under subsection (1) only if—
- (a) the driver of the vehicle is an employee of its owner or hirer,
 - (b) the driver of the vehicle is its owner or hirer, or
 - (c) a penalty notice is issued to the owner or hirer of the vehicle.
- (2B) A senior officer may detain a relevant vehicle, small ship, small aircraft or rail freight wagon pending—
- (a) a decision whether to issue a penalty notice,
 - (b) the issue of a penalty notice, or
 - (c) a decision whether to detain under subsection (1).
- (2C) That power may not be exercised in any case—
- (a) for longer than is necessary in the circumstances of the case, or
 - (b) after the expiry of the period of 24 hours beginning with the conclusion of the first search of the vehicle, ship, aircraft or wagon by an immigration officer after it arrived in the United Kingdom.”

Commencement Information

- I25** Sch. 8 para. 9 partly in force; Sch. 8 para. 9 not in force at Royal Assent see s. 162(2); Sch. 8 para. 9 in force at 8.12.2002 for certain purposes by [S.I. 2002/2811](#), [art. 2](#), [Sch.](#)
- I26** Sch. 8 para. 9 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263](#), [art. 2](#)
- I27** [Sch. 8 para. 9](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32](#), [art. 2\(1\)\(b\)\(2\)](#)

- 10 After section 36 insert—

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“36A Detention in default of payment

- (1) This section applies where a person to whom a penalty notice has been issued under section 35 fails to pay the penalty before the date specified in accordance with section 35(2)(c).
- (2) The Secretary of State may make arrangements for the detention of any vehicle, small ship, small aircraft or rail freight wagon which the person to whom the penalty notice was issued uses in the course of a business.
- (3) A vehicle, ship, aircraft or wagon may be detained under subsection (2) whether or not the person to whom the penalty notice was issued owns it.
- (4) But a vehicle may be detained under subsection (2) only if the person to whom the penalty notice was issued—
 - (a) is the owner or hirer of the vehicle, or
 - (b) was an employee of the owner or hirer of the vehicle when the penalty notice was issued.
- (5) The power under subsection (2) may not be exercised while an appeal against the penalty under section 35A is pending or could be brought (ignoring the possibility of an appeal out of time with permission).
- (6) The Secretary of State shall arrange for the release of a vehicle, ship, aircraft or wagon detained under this section if the person to whom the penalty notice was issued pays—
 - (a) the penalty, and
 - (b) expenses reasonably incurred in connection with the detention.”

Commencement Information

- I28** Sch. 8 para. 10 partly in force; Sch. 8 para. 10 not in force at Royal Assent see s. 162(2); Sch. 8 para. 10 in force at 8.12.2002 for certain purposes by [S.I. 2002/2811](#), [art. 2](#), [Sch.](#)
- I29** Sch. 8 para. 10 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263](#), [art. 2](#)
- I30** [Sch. 8 para. 10](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32](#), [art. 2\(1\)\(b\)\(2\)](#)

- 11 (1) Section 37 (effect of detention of transporter) shall be amended as follows.
- (2) In subsection (1) for “section 36” substitute “ section 36(1) ”.
 - (3) In subsection (2) for “claiming an interest in the transporter,” substitute “ whose interests may be affected by detention of the transporter, ”.
 - (4) In subsection (3)(c) omit “and the applicant has a compelling need to have the transporter released”.
 - (5) After subsection (3) insert—
 - “(3A) The court may also release the transporter on the application of the owner of the transporter under subsection (2) if—
 - (a) a penalty notice was not issued to the owner or an employee of his, and
 - (b) the court considers it right to release the transporter.

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(3B) In determining whether to release a transporter under subsection (3A) the court shall consider—

- (a) the extent of any hardship caused by detention,
- (b) the extent (if any) to which the owner is responsible for the matters in respect of which the penalty notice was issued, and
- (c) any other matter which appears to the court to be relevant (whether specific to the circumstances of the case or of a general nature).”

(6) After subsection (5) insert—

“(5A) The power of sale under subsection (4) may be exercised only when no appeal against the imposition of the penalty is pending or can be brought (ignoring the possibility of an appeal out of time with permission).

(5B) The power of sale under subsection (4) shall lapse if not exercised within a prescribed period.”

(7) After subsection (6) add—

“(7) This section applies to a transporter detained under section 36A as it applies to a transporter detained under section 36(1); but for that purpose—

- (a) the court may release the transporter only if the court considers that the detention was unlawful or under subsection (3A) (and subsection (3) shall not apply), and
- (b) the reference in subsection (4) to the period of 84 days shall be taken as a reference to a period prescribed for the purpose of this paragraph.”

Commencement Information

- I31** Sch. 8 para. 11 partly in force; Sch. 8 para. 11 not in force at Royal Assent see s. 162(2); Sch. 8 para. 11 in force at 14.11.2002 and 8.12.2002 for certain purposes by [S.I. 2002/2811, art. 2, Sch.](#)
- I32** Sch. 8 para. 11 in force at 11.5.2012 for specified purposes by [S.I. 2012/1263, art. 2](#)
- I33** [Sch. 8 para. 11](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32, art. 2\(1\)\(b\)\(2\)](#)

12 Section 39(rail freight) shall cease to have effect.

Commencement Information

- I34** Sch. 8 para. 12 partly in force; Sch. 8 para. 12 not in force at Royal Assent see s. 162(2); Sch. 8 para. 12 in force at 8.12.2002 for certain purposes by [S.I. 2002/2811, art. 2, Sch.](#)
- I35** [Sch. 8 para. 12](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32, art. 2\(1\)\(b\)\(2\)](#)

13 For section 40 (charge in respect of passenger without proper documents) substitute—

“40 Charge in respect of passenger without proper documents

- (1) This section applies if an individual requiring leave to enter the United Kingdom arrives in the United Kingdom by ship or aircraft and, on being required to do so by an immigration officer, fails to produce—

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- (a) an immigration document which is in force and which satisfactorily establishes his identity and his nationality or citizenship, and
 - (b) if the individual requires a visa, a visa of the required kind.
- (2) The Secretary of State may charge the owner of the ship or aircraft, in respect of the individual, the sum of £2,000.
- (3) The charge shall be payable to the Secretary of State on demand.
- (4) No charge shall be payable in respect of any individual who is shown by the owner to have produced the required document or documents to the owner or his employee or agent when embarking on the ship or aircraft for the voyage or flight to the United Kingdom.
- (5) For the purpose of subsection (4) an owner shall be entitled to regard a document as—
 - (a) being what it purports to be unless its falsity is reasonably apparent, and
 - (b) relating to the individual producing it unless it is reasonably apparent that it does not relate to him.
- (6) For the purposes of this section an individual requires a visa if—
 - (a) under the immigration rules he requires a visa for entry into the United Kingdom, or
 - (b) as a result of section 41 he requires a visa for passing through the United Kingdom.
- (7) The Secretary of State may by order amend this section for the purpose of applying it in relation to an individual who—
 - (a) requires leave to enter the United Kingdom, and
 - (b) arrives in the United Kingdom by train.
- (8) An order under subsection (7) may provide for the application of this section—
 - (a) except in cases of a specified kind;
 - (b) subject to a specified defence.
- (9) In this section “immigration document” means—
 - (a) a passport, and
 - (b) a document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport.
- (10) The Secretary of State may by order substitute a sum for the sum in subsection (2).

40A Notification and objection

- (1) If the Secretary of State decides to charge a person under section 40, the Secretary of State must notify the person of his decision.
- (2) A notice under subsection (1) (a “charge notice”) must—
 - (a) state the Secretary of State’s reasons for deciding to charge the person,

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- (b) state the amount of the charge,
 - (c) specify the date before which, and the manner in which, the charge must be paid,
 - (d) include an explanation of the steps that the person may take if he objects to the charge, and
 - (e) include an explanation of the steps that the Secretary of State may take under this Part to recover any unpaid charge.
- (3) Where a person on whom a charge notice is served objects to the imposition of the charge on him, he may give a notice of objection to the Secretary of State.
- (4) A notice of objection must—
- (a) be in writing,
 - (b) give the objector's reasons, and
 - (c) be given before the end of such period as may be prescribed.
- (5) Where the Secretary of State receives a notice of objection to a charge in accordance with this section, he shall—
- (a) consider it, and
 - (b) determine whether or not to cancel the charge.
- (6) Where the Secretary of State considers a notice of objection, he shall inform the objector of his decision before the end of—
- (a) such period as may be prescribed, or
 - (b) such longer period as he may agree with the objector.
- (7) Any sum payable to the Secretary of State as a charge under section 40 may be recovered by the Secretary of State as a debt due to him.
- (8) In proceedings for enforcement of a charge under subsection (7) no question may be raised as to the validity of the charge.
- (9) Subsections (12) and (13) of section 35 shall have effect for the purpose of this section as they have effect for the purpose of section 35(1), (7) and (10).

40B Appeal

- (1) A person may appeal to the court against a decision to charge him under section 40.
- (2) On an appeal under this section the court may—
- (a) allow the appeal and cancel the charge, or
 - (b) dismiss the appeal.
- (3) An appeal under this section—
- (a) shall be a re-hearing of the Secretary of State's decision to impose a charge, and
 - (b) may be determined having regard to matters of which the Secretary of State was unaware.
- (4) Subsection (3)(a) has effect despite any provision of Civil Procedure Rules.

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- (5) An appeal may be brought by a person under this section against a decision to charge him whether or not he has given notice of objection under section 40A(3).”

Commencement Information

I36 Sch. 8 para. 13 wholly in force at 8.12.2002; Sch. 8 para. 13 not in force at Royal Assent see s. 162(2); Sch. 8 para. 13 in force at 14.11.2002 for certain purposes and wholly in force at 8.12.2002 by [S.I. 2002/2811](#), art. 2, [Sch.](#)

- 14 Section 42(power to detain vehicle, &c. carrying person without proper travel documents) shall cease to have effect.
- 15 In section 43 (interpretation) (which becomes subsection (1))—
- (a) in the definition of “concealed” for “or aircraft” substitute “ , aircraft or rail freight wagon ”,
- (b) omit the definition of “court”,
- (c) after the definition of “equipment” insert—
- ““freight shuttle wagon” means a wagon which—
- (a) forms part of a shuttle-train, and
- (b) is designed to carry commercial goods vehicles;
- “freight train” means any train other than—
- (a) a train engaged on a service for the carriage of passengers, or
- (b) a shuttle-train;”,
- (d) in the definition of “owner” omit paragraph (b) and the word “and” immediately preceding it,
- (e) for the definition of “rail freight wagon” substitute—
- ““rail freight wagon” means—
- (a) any rolling stock, other than a locomotive, which forms part of a freight train, or
- (b) a freight shuttle wagon,
- and for the purpose of this definition, “rolling stock” and “locomotive” have the meanings given by section 83 of the Railways Act 1993 (c.43);”,
- (f) after the definition of “ship” insert—
- ““shuttle-train” has the meaning given by section 1(9) of the Channel Tunnel Act 1987 (c. 53);”,
- (g) in the definition of “transporter” for “or aircraft” substitute “ , aircraft or rail freight wagon ”, and
- (h) at the end insert—
- “(2) A reference in this Part to “the court” is a reference—
- (a) in England and Wales, to a county court,
- (b) in Scotland, to the sheriff, and
- (c) in Northern Ireland, to a county court.

Changes to legislation: Nationality, Immigration and Asylum Act 2002, SCHEDULE 8 is up to date with all changes known to be in force on or before 08 May 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

(3) But—

- (a) a county court may transfer proceedings under this Part to the High Court, and
- (b) the sheriff may transfer proceedings under this Part to the Court of Session.”

16 (1) Schedule 1 (sale of transporter) shall be amended as follows.

(2) In paragraph 1(2)(a) omit “or charge”.

(3) After paragraph 2 insert—

“2A Where the owner of a transporter is a party to an application for leave to sell it, in determining whether to give leave the court shall consider—

- (a) the extent of any hardship likely to be caused by sale,
- (b) the extent (if any) to which the owner is responsible for the matters in respect of which the penalty notice was issued, and
- (c) any other matter which appears to the court to be relevant (whether specific to the circumstances of the case or of a general nature).”

(4) In paragraph 5(1) omit “or 42”.

(5) In paragraph 5(2)(d) omit “or charge”.

Commencement Information

I37 Sch. 8 para. 16 partly in force; Sch. 8 para. 16 not in force at Royal Assent see s. 162(2); Sch. 8 para. 16 in force at 8.12.2002 for certain purposes by [S.I. 2002/2811](#), [art. 2](#), [Sch.](#)

I38 [Sch. 8 para. 16](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32](#), [art. 2\(1\)\(b\)\(2\)](#)

I39 Sch. 8 para. 16(1)(3) in force at 11.5.2012 for specified purposes by [S.I. 2012/1263](#), [art. 2](#)

17 (1) This paragraph applies to a code of practice which—

- (a) has effect, before the coming into force of paragraph 12 of this Schedule, by virtue of sections 33 and 39 of the Immigration and Asylum Act 1999 (c. 33) (power to apply provisions about carriers' liability to rail freight), and
- (b) could be issued under section 33 of that Act after the coming into force of paragraph 2 of this Schedule.

(2) A code of practice to which this paragraph applies—

- (a) shall continue to have effect after the coming into force of paragraph 12 of this Schedule, and
- (b) shall be treated after that time as if made and brought into operation under section 33 alone.

Commencement Information

I40 Sch. 8 para. 17 partly in force; Sch. 8 para. 17 not in force at Royal Assent see s. 162(2); Sch. 8 para. 17 in force at 8.12.2002 for certain purposes by [S.I. 2002/2811](#), [art. 2](#), [Sch.](#)

I41 [Sch. 8 para. 17](#) in force at 13.2.2023 for specified purposes by [S.I. 2023/32](#), [art. 2\(1\)\(b\)\(2\)](#)

Changes to legislation:

Nationality, Immigration and Asylum Act 2002, SCHEDULE 8 is up to date with all changes known to be in force on or before 08 May 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.

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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\(5\)](#))