

*Status: Point in time view as at 12/10/2011.*

*Changes to legislation: Immigration and Asylum Act 1999, SCHEDULE 1 is up to date with all changes known to be in force on or before 30 June 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)*

## SCHEDULES

### SCHEDULE 1

Sections 37(6) and 42(8).

#### SALE OF TRANSPORTERS

##### Modifications etc. (not altering text)

- C1** S. 37 (and Sch. 1) applied (with modifications) (7.2.2001 for certain purposes and otherwise 1.3.2001) by S.I. 2001/280, **arts. 1-4** (with art. 5)
- C2** Sch. 1: power to apply (with modifications) or amend conferred (prosp.) by **Nationality, Immigration and Asylum Act 2002 (c. 41), ss. 124(6)(7), 162(1)** (with s. 159)

##### *Leave of court required*

- 1 (1) The sale of a transporter requires the leave of the court.
- (2) The court is not to give its leave except on proof—
- (a) that the penalty [<sup>F1</sup>or charge] is or was due;
  - (b) that the person liable to pay it or any connected expenses has failed to do so; and
  - (c) that the transporter which the Secretary of State seeks leave to sell is liable to sale.

##### Textual Amendments

- F1** Words in Sch. 1 para. 1(2)(a) repealed (8.12.2002 for certain purposes, 11.5.2012 in so far as not already in force) by **Nationality, Immigration and Asylum Act 2002 (c. 41), ss. 125, 161, 162(1), Sch. 8 para. 16(2), Sch. 9** (with s. 159); S.I. 2002/2811, **art. 2, Sch.** (with art. 4), S.I. 2012/1263, art. 2

##### Commencement Information

- I1** Sch. 1 para. 1 partly in force; Sch. 1 para. 1 not in force at Royal Assent see s. 170(4); Sch. 1 para. 1 in force for certain purposes at 3.4.2000 by S.I. 2000/464, **art. 2, Sch.**

##### *Notice of proposed sale*

- 2 Before applying for leave to sell a transporter, the Secretary of State must take such steps as may be prescribed—
- (a) for bringing the proposed sale to the notice of persons whose interests may be affected by a decision of the court to grant leave; and
  - (b) for affording to any such person an opportunity of becoming a party to the proceedings if the Secretary of State applies for leave.
- [<sup>F2A</sup> 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,

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- (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).]

#### Textual Amendments

- F2** Sch. 1 para. 2A inserted (8.12.2002 for certain purposes, otherwise prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 125, 162(1), **Sch. 8 para. 16(3)** (with s. 159); S.I. 2002/2811, **art. 2**, Sch. (with art. 4)

#### *Duty to obtain best price*

- 3 If leave for sale is given, the Secretary of State must secure that the transporter is sold for the best price that can reasonably be obtained.

#### Commencement Information

- I2** Sch. 1 para. 3 partly in force; Sch. 1 para. 3 not in force at Royal Assent see s. 170(4); Sch. 1 para. 3 in force for certain purposes at 3.4.2000 by S.I. 2000/464, **art. 2**, Sch.

#### *Effect of failure to comply with paragraph 2 or 3*

- 4 Failure to comply with any requirement of paragraph 2 or 3 in respect of any sale—
- (a) is actionable against the Secretary of State at the suit of any person suffering loss in consequence of the sale; but
  - (b) after the sale has taken place, does not affect its validity.

#### Commencement Information

- I3** Sch. 1 para. 4 partly in force; Sch. 1 para. 4 not in force at Royal Assent see s. 170(4); Sch. 1 para. 4 in force for certain purposes at 3.4.2000 by S.I. 2000/464, **art. 2**, Sch.

#### *Application of proceeds of sale*

- 5 (1) Any proceeds of sale arising from a sale under section 37 [<sup>F3</sup>or 42] must be applied—
- (a) in making prescribed payments; and
  - (b) in accordance with such provision as to priority of payments as may be prescribed.
- (2) The regulations may, in particular, provide for proceeds of sale to be applied in payment—
- (a) of customs or excise duty,
  - (b) of value added tax,
  - (c) of expenses incurred by the Secretary of State,
  - (d) of any penalty [<sup>F4</sup>or charge] which the court has found to be due,
  - (e) in the case of the sale of an aircraft, of charges due as a result of regulations made under section 73 of the <sup>M1</sup>Civil Aviation Act 1982,

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- (f) of any surplus to or among the person or persons whose interests in the transporter have been divested as a result of the sale, but not necessarily in that order of priority.

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#### Textual Amendments

- F3** Words in Sch. 1 para. 5(1) repealed (8.12.2002 for certain purposes, otherwise prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 125, 161, 162(1), [Sch. 8 para. 16\(4\)](#), [Sch. 9](#) (with s. 159); S.I. 2002/2811, [art. 2](#), Sch. (with art. 4)
- F4** Words in Sch. 1 para. 5(2)(d) repealed (8.12.2002 for certain purposes, otherwise prosp.) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 125, 161, 162(1), [Sch. 8 para. 16\(5\)](#), [Sch. 9](#) (with s. 159); S.I. 2002/2811, [art. 2](#), Sch. (with art. 4)

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#### Marginal Citations

- M1** 1982 c. 16.

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