



Immigration and Asylum Act 1999

1999 CHAPTER 33

PART II

CARRIERS' LIABILITY

Clandestine entrants

35 Procedure.

- (1) If the Secretary of State decides that a person ("P") is liable to one or more penalties under section 32, he must notify P of his decision.
- (2) A notice under subsection (1) (a "penalty notice") must—
 - (a) state the Secretary of State's reasons for deciding that P is liable to the penalty (or penalties);
 - (b) state the amount of the penalty (or penalties) to which P is liable;
 - (c) specify the date before which, and the manner in which, the penalty (or penalties) must be paid; and
 - (d) include an explanation of the steps—
 - (i) that P [^{F1}may] take if he objects to the penalty;
 - (ii) that the Secretary of State may take under this Part to recover any unpaid penalty.
- [^{F2}(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

Status: Point in time view as at 14/11/2002. This version of this provision has been superseded.

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- (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.]
- (9) The Secretary of State may by regulations provide, in relation to detached trailers, for a penalty notice which is [^{F3}issued] in such manner as may be prescribed to have effect as a penalty notice properly [^{F4}issued to] the responsible person or persons concerned under this section.
- (10) Any sum payable to the Secretary of State as a penalty under section 32 may be recovered by the Secretary of State as a debt due to him.
- [^{F5}(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.]

Textual Amendments

- F1** Word in s. 35(2)(d)(i) substituted (14.11.2002 for certain purposes, 8.12.2002 for certain further purposes, 11.5.2012 in so far as not already in force) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 125, 162\(1\), Sch. 8 para. 7\(2\)](#) (with s. 159); S.I. 2002/2811, [art. 2](#), Sch. (with art. 4), S.I. 2012/1263, art. 2
- F2** S. 35(3)-(7) substituted for s. 35(3)-(8) (14.11.2002 for certain purposes, 8.12.2002 for certain further purposes, 11.5.2012 in so far as not already in force) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\), ss. 125, 162\(1\), Sch. 8 para. 7\(3\)](#) (with s. 159); S.I. 2002/2811, [art. 2](#), Sch. (with art. 4), S.I. 2012/1263, art. 2

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- F3** Word in s. 35(9) substituted (14.11.2002 for certain purposes, 8.12.2002 for certain further purposes, 11.5.2012 in so far as not already in force) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 125, 162(1), [Sch. 8 para. 7\(4\)\(a\)](#) (with s. 159); S.I. 2002/2811, [art. 2](#), [Sch.](#) (with art. 4), S.I. 2012/1263, art. 2
- F4** Words in s. 35(9) substituted (14.11.2002 for certain purposes, 8.12.2002 for certain further purposes, 11.5.2012 in so far as not already in force) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 125, 162(1), [Sch. 8 para. 7\(4\)\(b\)](#) (with s. 159); S.I. 2002/2811, [art. 2](#), [Sch.](#) (with art. 4), S.I. 2012/1263, art. 2
- F5** S. 35(11)-(13) added (14.11.2002 for certain purposes, 8.12.2002 for certain further purposes, 11.5.2012 in so far as not already in force) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. 125, 162(1), [Sch. 8 para. 7\(5\)](#) (with s. 159); S.I. 2002/2811, [art. 2](#), [Sch.](#) (with art. 4), S.I. 2012/1263, art. 2

Modifications etc. (not altering text)

- C1** S. 35(1)(2)(6)-(8)(10) 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)

Commencement Information

- I1** S. 35 partly in force; s. 35 not in force at Royal Assent, see s. 170(4); s. 35(7)-(9) in force for certain purposes at 6.12.1999 by [S.I. 1999/3190](#), [art. 2](#), [Sch.](#); s. 35 in force for certain purposes at: 3.4.2000 by [S.I. 2000/464](#), [art. 2](#), [Sch.](#); 18.9.2000 by [S.I. 2000/2444](#), [art. 2](#), [Sch. 1](#) (subject to [arts. 3, 4](#), [Sch. 2](#)); 8.12.2002 by [S.I. 2002/2815](#), [art. 2](#), [Sch.](#)

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