

**2023 No. 29**

**IMMIGRATION AND ASYLUM**

**The Carriers' Liability (Amendment) Regulations 2023**

<i>Made</i> - - - -	<i>12th January 2023</i>
<i>Laid before Parliament</i>	<i>16th January 2023</i>
<i>Coming into force</i> - -	<i>13th February 2023</i>

The Secretary of State, in exercise of the powers conferred by sections 31A(4), (7)(a) and (c), (8) and (16), 32(2A)(a) and (c) and (2C), 35(2)(e), (5)(c), (7)(a), (9) and (13), 36A(11), 37(5B), 166(3) and 167(1) of, and paragraph 2 of Schedule 1 to, the Immigration and Asylum Act 1999(a), makes the following Regulations.

In accordance with section 31A(6) and section 32(2E) of that Act, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

**Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Carriers' Liability (Amendment) Regulations 2023.

(2) They come into force on 13th February 2023.

(3) An amendment made by these Regulations has the same extent as the provision being amended.

**Amendment of the Carriers' Liability Regulations 2002: general**

**2.** The Carriers' Liability Regulations 2002(b) are amended in accordance with regulations 3 to 19.

**Amendments relating to interpretation**

**3.** In regulation 2—

(a) number the existing paragraph as “(1)”;

(b) in the renumbered paragraph (1)—

(i) after the definition of “clandestine entrant”, insert—

““commercially operated bus” means a motor vehicle constructed or adapted to carry more than eight seated passengers in addition to the driver that, at the relevant time, is

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(a) 1999 c. 33; relevant amendments made by section 125 of, and paragraphs 2, 7 and 11 of Schedule 8 to, the Nationality, Immigration and Asylum Act 2002 (c. 41) paragraphs 3, 4 and 8 of Schedule 5 to the Nationality and Borders Act 2022 (c. 36) and S.I. 2001/280. Section 167(1) is cited for the definition of “prescribed”.

(b) S.I. 2002/2817; amended by S.I. 2002/244.

used for carrying passengers for hire or reward in the course of a business of carrying passengers;

“driver”, in the case of a detached trailer, includes operator;”;

(ii) in the definition of “penalty notice” for “the notice” substitute “a notice”;

(iii) after the definition of “notice of objection” insert—

““relevant journey” means the journey during which the clandestine entrant for which the person in question is responsible became concealed in the vehicle;”

(iv) at the end, insert—

““seal” means a mechanism or tag that is secured to a means of entry on a goods vehicle to prevent unauthorised access;

“secured by an optimal method” means secured, so as to prevent unauthorised entry, by use of—

(a) a lock, seal, or other security device; or

(b) where the vehicle is of curtain-sided construction, a TIR cable or strap that is taut and passes through all related eyelets, provided that the TIR cable or strap is secured by lock, seal or other security device to the vehicle;

“the standard checks” are the checks listed in paragraphs 1 to 12 of the Schedule;

“TIR cable or strap” means a cable or strap of a design that is in accordance with the specifications set out in Annex 2 to the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (Geneva, 14th November 1975)(a).”;

(c) after paragraph (1), insert—

“(2) In the definition of commercially operated bus, the “relevant time” is—

(a) any time during a journey to a place mentioned in section 31A(2) of the Act; or

(b) any time during a relevant journey.

(3) A lock or other security device is inherent to a vehicle if it was installed during the manufacture of the vehicle.

(4) A vehicle is of curtain-sided construction if it has a rigid floor and roof but walls that incorporate a retractable fabric construction so as to allow access to the vehicle’s cargo.”.

#### **Amendments relating to the meaning of goods vehicle being adequately secured against unauthorised access**

4. After regulation 2 insert—

##### **“Failure to secure a goods vehicle: meaning of goods vehicle being adequately secured against unauthorised access**

**2A.** For the purposes of section 31A(1)(a) of the Act, a goods vehicle is adequately secured against unauthorised access if—

(a) where the vehicle has a load space that is enclosed (wholly or partly) by an outer shell or by a fabric cover—

(i) there are no cuts, tears or other damage in the outer shell or fabric exceeding 25cm in length that are not repaired to a standard sufficient to prevent unauthorised access; and

(ii) the outer shell or fabric shows no other signs of unauthorised access;

(b) all means of entry to the load space—

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(a) Cmnd. 9032.

- (i) that are able to be secured by an optimal method against unauthorised access are so secured; and
- (ii) that are not able to be secured by an optimal method against unauthorised access but are able to be secured against unauthorised access by another method, are so secured;
- (c) all cargo—
  - (i) that is able to be secured by an optimal method against unauthorised access is so secured; and
  - (ii) that is not able to be secured by an optimal method against unauthorised access but is able to be secured against unauthorised access by another method, is so secured;
- (d) no lock, seal or other security device shows signs of tampering, damage or unauthorised repair or replacement;
- (e) where the vehicle has them, no TIR cables, straps or related eyelets show signs of tampering, damage or unauthorised repair or replacement;
- (f) all locks and other security devices inherent to the goods vehicle are in good working order, and are being used appropriately and with reasonable care;
- (g) the documentation accompanying the vehicle under regulation 2E(8) has been completed in accordance with regulation 2E;
- (h) no external storage compartments or wind deflectors show signs of unauthorised access that have not been noted by a person responsible for the vehicle and recorded under regulation 2E;
- (i) there are no signs of unauthorised access underneath or inside the vehicle that have not been noted by a person responsible for the vehicle and recorded under regulation 2E;
- (j) there are no signs of unauthorised access to the vehicle’s roof when checked from an internal vantage point that have not been noted by a person responsible for the vehicle and recorded under regulation 2E; and
- (k) the vehicle is not carrying any persons who have gained unauthorised access to it.”

**Amendments relating to actions to be taken by each person responsible for a goods vehicle in relation to securing it against unauthorised access**

5. After regulation 2A (as inserted by regulation 4 of these Regulations), insert—

**“Failure to secure a goods vehicle: actions to be taken in relation to securing a goods vehicle against unauthorised access**

**2B.**—(1) For the purposes of section 31A(1)(b) of the Act, the actions to be taken by a person responsible for a goods vehicle before or during a journey to a place mentioned in section 31A(2) of the Act in relation to the securing of the vehicle against unauthorised access are as follows.

(2) Before a journey, the owner, or, as the case may be, hirer, must ensure that each seal used on the goods vehicle is distinguished by a number that is unique amongst the seals used on the goods vehicle.

(3) Where the goods vehicle is equipped with a TIR cable or strap, the owner, or, as the case may be, hirer, must ensure that the TIR cable or strap is in good working order before the vehicle begins any journey.

(4) Before a journey, the driver must ensure that—

- (a) where the vehicle has a load space that is enclosed (wholly or partly) by an outer shell or by a fabric cover, all cuts, tears or other damage in the outer shell or fabric

exceeding 25cm in length are repaired to a standard sufficient to prevent unauthorised entry; and

(b) the standard checks are performed.

(5) Where the goods vehicle has a means of entry to its load space that is not able to be secured by an optimal method, the owner, or, as the case may be, hirer, must, before a journey, take all reasonable steps to ensure that the means of entry is able to be secured against unauthorised access by another method.

(6) Where the goods vehicle has a cargo that is not able to be secured by an optimal method, the owner, or, as the case may be, hirer, must, before a journey, take all reasonable steps to ensure that the cargo is able to be secured against unauthorised access by another method.

(7) Before a journey, the driver and either the owner, or, as the case may be, hirer, must ensure that all locks and other security devices inherent to the vehicle, the function of which is to prevent unauthorised use of, or access to, the vehicle, are in good working order.

(8) During a journey, the driver must ensure that all locks and other security devices inherent to the vehicle, the function of which is to prevent unauthorised use of, or access to, the vehicle, are used appropriately and with reasonable care.”.

#### **Amendments relating to actions to be taken in relation to checking a person has not gained unauthorised access**

6. After regulation 2B (as inserted by regulation 5 of these Regulations), insert—

##### **“Failure to secure a goods vehicle: actions to be taken in relation to checking a person has not gained unauthorised access**

**2C.**—(1) For the purposes of section 31A(1)(b) of the Act, the actions to be taken by a person responsible for a goods vehicle before or during a journey to a place mention in section 31A(2) of the Act in relation to checking that a person has not gained unauthorised access are as follows.

(2) The driver must, during each occasion the vehicle is parked during a journey, perform the standard checks.

(3) Where, at any point during a journey before the goods vehicle enters the United Kingdom, a person responsible for the goods vehicle knows or has reason to believe that a means of entry to the vehicle’s load space has been opened, that person must ensure that the standard checks are performed.

(4) Where, at any point during a journey before the goods vehicle enters the United Kingdom, a new driver becomes responsible for the goods vehicle, the new driver must perform the standard checks.

(5) As soon as practicable before the goods vehicle reaches immigration control, the driver must perform the standard checks.

(6) In this Regulation, a “new driver” is a driver other than the driver who was most recently responsible for the goods vehicle.”.

#### **Amendments relating to actions to be taken in relation to reporting unauthorised access to a goods vehicle**

7. After regulation 2C (as inserted by regulation 6 of these Regulations), insert—

##### **“Failure to secure a goods vehicle: actions to be taken in relation to reporting unauthorised access**

**2D.**—(1) For the purposes of section 31A(1)(b) of the Act the actions to be taken by a person responsible for a goods vehicle before or during a journey to a place mentioned in

section 31A(2) of the Act in relation to the reporting of any unauthorised access to the vehicle are as follows.

(2) A person responsible for the goods vehicle (“P”) who knows or has reasonable cause to suspect that a relevant event has occurred must, as soon as reasonably possible afterwards and where it is reasonably possible to do so before reaching immigration control, report their knowledge or suspicion to—

- (a) the police force of the country or territory in which P is located; or
- (b) a person formed or existing under the law of the country or territory in which P is located, exercising functions which—
  - (i) correspond to those of a police force; or
  - (ii) otherwise involve the investigation and prosecution of offences.

(3) In paragraph (3), a “relevant event” is—

- (a) that the goods vehicle shows signs that a person gained, or attempted to gain, unauthorised access to the vehicle; or
- (b) that a person has gained unauthorised access to the vehicle.

(4) At the earliest opportunity upon arrival at immigration control (whether operated at a place in or outside of the United Kingdom), P must report to an immigration officer—

- (a) any knowledge or suspicion P may have that a person gained unauthorised access to the goods vehicle during the journey (including any such knowledge or belief arising subsequent to arriving at immigration control);
- (b) any damage to the vehicle that, in the reasonable opinion of P, may have been caused by a person gaining, or attempting to gain, unauthorised access to the vehicle; and
- (c) any signs of tampering or damage to, or unauthorised repair or replacement of, any lock, seal or other security device present on the goods vehicle that does not fall within sub-paragraph (b).

(5) But P must not take the vehicle to a relevant place, or onto any relevant transporter, if, at any point prior to arriving at the relevant place or going onto the relevant transporter, P has knowledge or suspicion that a person—

- (a) gained unauthorised access to the vehicle; and
- (b) remains in the vehicle.

(6) In paragraph (5)—

“relevant place” means a place where immigration control is operated outside of the United Kingdom;

“relevant transporter” means any aircraft, train, ship or vehicle embarking for the United Kingdom.”.

#### **Amendments relating to actions to be taken in relation to the keeping of records in respect of a goods vehicle**

8. After regulation 2D (as inserted by regulation 7 of these Regulations), insert—

##### **“Failure to secure a goods vehicle: actions to be taken in relation to the keeping of records**

**2E.**—(1) For the purposes of section 31A(1) of the Act, the actions to be taken by a person responsible for a goods vehicle before or during a journey to a place mentioned in section 31A(2) in relation to the keeping of records to establish that other actions specified in these Regulations have been taken are as follows.

(2) As soon as practicable afterwards, the owner, or, as the case may be, hirer, must record in writing—

- (a) that they have ensured that actions set out in regulation 2B(2), (3), (5), (6) and (7) and 2C(3) (as applicable) have been taken; and
  - (b) any signs noted by the person taking those actions that a person has gained, or attempted to gain, unauthorised access to the goods vehicle.
- (3) As soon as practicable afterwards, the driver must record in writing—
- (a) that they have ensured that the actions set out in regulation 2B(4), (7) and (8) and 2C(2), (3), (4) and (5) (as applicable) have been taken; and
  - (b) any signs noted by the driver that a person has gained, or attempted to gain, unauthorised access to the goods vehicle.
- (4) Before a journey, the persons responsible for the goods vehicle must ensure that all numbers used for seals on the vehicle are recorded in writing.
- (5) Where a seal used on the goods vehicle is broken or replaced, the persons responsible for the goods vehicle must, as soon as practicable afterwards, ensure that the following information is recorded in writing—
- (a) the number of the broken seal;
  - (b) the number of the replacement seal;
  - (c) the time and date on which the seal was broken (if known);
  - (d) the time and date on which the replacement seal was installed;
  - (e) where it has been reported to an immigration officer that a seal on the goods vehicle has been broken, the time and date on which it was reported.
- (6) Where a person (“P”) responsible for the goods vehicle ensures an action set out in regulation 2B(2), (3) or (4) or 2C(3) is taken by a third party, P must take all reasonable steps to include with the written record under this regulation evidence to that effect.
- (7) In relation to paragraph (6), the evidence may take the form of an endorsement by the third party on the record that they took the action in question.
- (8) The driver must ensure that a copy of the written records referred to in paragraphs (2), (3), (4) and (5) (as well as any related evidence) are kept with the goods vehicle.”.

**Amendments relating to the penalty payable if a goods vehicle is not adequately secured and specified actions have not been taken**

9. After regulation 2E (as inserted by regulation 8 of these Regulations), insert—

**“Failure to secure a goods vehicle: penalty payable if a goods vehicle is not adequately secured and specified actions have not been taken**

2F.—(1) The amount prescribed for the purpose of section 31A(7)(a) of the Act (maximum penalty payable by a person responsible for a goods vehicle if it is not adequately secured and specified actions have not been taken) is £6,000.

(2) The amount prescribed for the purpose of section 31A(7)(c) of the Act (maximum aggregate penalty payable by persons responsible for a goods vehicle) is £12,000.”.

**Amendments relating to the penalty payable by a person responsible for a clandestine entrant**

10. In regulation 3—

- (a) in paragraph (1) (maximum penalty payable by a responsible person in respect of a clandestine entrant or concealed person), for “£2,000” substitute “£10,000”;
- (b) in paragraph (2) (maximum aggregate penalty payable by a responsible person in respect of a clandestine entrant or concealed person), for “£4,000” substitute “£20,000”.

**Amendments relating to checking that a person has not gained unauthorised access to a goods vehicle in order to be eligible for a reduction in the amount of a penalty**

11. After regulation 3, insert—

**“Clandestine entrants, reduction in penalty: checking that a person has not gained unauthorised access to a goods vehicle**

3A. For the purposes of section 32(2C) of the Act, in order to be eligible for a reduction in the amount of a penalty under section 32(2), a person responsible for a clandestine entrant concealed in a goods vehicle must have taken such of the actions in regulations 2B, 2C, 2D and 2E as are actions to be taken by that person.”.

**Amendments relating to checking that a person has not gained unauthorised access to a commercially operated bus in order to be eligible for a reduction in the amount of a penalty**

12. After regulation 3A (as inserted by regulation 11 of these Regulations), insert—

**“Clandestine entrants, reduction in penalty: checking that a person has not gained unauthorised access to a commercially operated bus**

3B.—(1) For the purposes of section 32(2C) of the Act, the actions that a person responsible for a clandestine entrant concealed in a commercially operated bus, including any attached trailer, must have taken in order to be eligible for a reduction in the amount of a penalty under section 32(2) of the Act are as follows.

(2) The owner, or, as the case may be, hirer, of the vehicle must have ensured that each seal to be used on the vehicle during the relevant journey was distinguished by a number that is unique amongst the seals used on the vehicle.

(3) The owner and the hirer must have ensured that—

- (a) all means of entry to the vehicle; and
- (b) all storage compartments, whether located inside or outside of the vehicle, and spaces accessible from the outside of the vehicle,

were able to be secured against unauthorised access by a lock or other security device for the relevant journey.

(4) The owner, or, as the case may be, hirer, and the driver must have ensured that all locks and other security devices inherent to the vehicle, the function of which is to prevent unauthorised use of, or access to, the vehicle were in good working order for the relevant journey.

(5) The driver must have ensured that, during the relevant journey—

- (a) the vehicle was locked when left unattended; and
- (b) all storage compartments on the vehicle were locked when not in use.

(6) The driver must have taken reasonable care to ensure that, when passengers boarded or alighted from the vehicle during the relevant journey, no person gained unauthorised access to the vehicle at that time.

(7) The driver must have taken reasonable steps to ensure that, when loading or unloading baggage or other belongings during the relevant journey, no person gained unauthorised access to the vehicle at that time.

(8) The driver must have used all locks and other security devices inherent to the vehicle, the function of which is to prevent unauthorised use of, or access to, the vehicle, appropriately and with reasonable care.

(9) As soon as practicable before reaching immigration control during the relevant journey, the driver must have—

- (a) checked that all passengers are present;

- (b) checked that no person has gained unauthorised access to the vehicle; and
- (c) locked all toilets, storage compartments and any space accessible from outside of the vehicle, and kept them locked until the vehicle had passed through immigration control unless required to open the space by an immigration officer.”.

**Amendments relating to checking that a person has not gained unauthorised access to a vehicle other than a goods vehicle or commercially operated bus in order to be eligible for a reduction in the amount of a penalty**

13. After regulation 3B (as inserted by regulation 12 of these Regulations), insert—

**“Clandestine entrants, reduction in penalty: checking that a person has not gained unauthorised access to a vehicle other than a goods vehicle or commercially operated bus:**

**3C.**—(1) For the purposes of section 32(2C) of the Act, the actions a person responsible for a clandestine entrant concealed in a vehicle, including any attached trailer, other than a goods vehicle or commercially operated bus, including any attached trailer, must have taken in order to be eligible for a reduction in the amount of a penalty under section 32(2) of the Act are as follows.

(2) The driver must have ensured that, during the relevant journey—

- (a) all access points to the internal areas of the vehicle were locked whenever the vehicle was left unattended, where possible to do so; and
- (b) all storage compartments on the vehicle were locked when not in use whenever the vehicle was left unattended, where possible to do so.

(3) The driver must have ensured that, during the relevant journey, all alarms fitted to the vehicle were active whenever the vehicle was left unattended.

(4) The driver must have taken reasonable care during the relevant journey to prevent any keys allowing access to the vehicle being used by a person to gain unauthorised access to the vehicle.

(5) The owner, or, as the case may be, hirer, and the driver must have ensured that all locks and other security devices inherent to the vehicle, the function of which is to prevent unauthorised use of or access to the vehicle, were in good working order for the relevant journey.

(6) The driver must have used those locks and other security devices appropriately and with reasonable care during the relevant journey.

(7) The driver must, as soon as practicable before reaching immigration control during the relevant journey, have checked that no clandestine entrant was concealed in the vehicle.”.

**Amendments relating to reporting unauthorised access to a vehicle other than a goods vehicle in order to be eligible for a reduction in the amount of a penalty**

14. After regulation 3C (as inserted by regulation 13 of these Regulations), insert—

**“Clandestine entrants, reduction in penalty: reporting unauthorised access to a vehicle other than a goods vehicle**

**3D.**—(1) For the purposes of section 32(2C) of the Act, the actions a person responsible for a clandestine entrant concealed in a vehicle, including any attached trailer, other than a goods vehicle, must have taken in order to be eligible for a reduction in the amount of a penalty under section 32(2) of the Act are as follows.

(2) A person responsible for a clandestine entrant (“P”) who, at any point before or during a relevant journey, knew or had reasonable cause to suspect that a relevant event had



occurred must, as soon as reasonably possible afterwards and where it is reasonably possible to do so before reaching immigration control during the relevant journey, have reported their knowledge or suspicion to—

- (a) the police force of the country or territory in which P was located when that knowledge or suspicion arose; or
- (b) a person formed or existing under the law of the country or territory in which P was located when that knowledge or suspicion arose, exercising functions which—
  - (i) correspond to those of a police force; or
  - (ii) otherwise involve the investigation and prosecution of offences.

(3) In paragraph (2), a “relevant event” is—

- (a) that the vehicle showed signs that a person gained, or attempted to gain, unauthorised access to the vehicle; or
- (b) that a person gained unauthorised access to the vehicle.

(4) At the earliest opportunity upon arrival at immigration control (whether operated at a place in or outside of the United Kingdom) during the relevant journey, P must have reported to an immigration officer—

- (a) any knowledge or suspicion P may have had that a person gained unauthorised access to the vehicle during the journey (including any such knowledge or belief arising subsequent to arriving at immigration control);
- (b) any damage to the vehicle that, in the reasonable opinion of P, may have been caused by a person gaining, or attempting to gain, unauthorised access to the vehicle; and
- (c) any signs of tampering or damage to, or unauthorised repair or replacement of, any lock, seal or other security device present on the vehicle that does not fall within sub-paragraph (b).

(5) But P must not have taken the vehicle to a relevant place, or onto any relevant transporter, if, at any point prior to arriving at the relevant place or going onto the relevant transporter, P had knowledge or suspicion that a person—

- (a) gained unauthorised access to the vehicle; and
- (b) remained in the vehicle.

(6) In paragraph (5), “relevant place” and “relevant transporter” have the same meaning as in regulation 2D.”.

#### **Amendments relating to the keeping of records in respect of a commercially operated bus in order to be eligible for a reduction in the amount of a penalty**

15. After regulation 3D (as inserted by regulation 14 of these Regulations), insert—

##### **“Clandestine entrants, reduction in penalty: keeping of records in respect of a commercially operated bus**

**3E.**—(1) For the purposes of section 32(2C) of the Act, the actions a person responsible for a clandestine entrant concealed in a commercially operated bus, including any attached trailer, must have taken in order to be eligible for a reduction in the amount of a penalty under section 32(2) of the Act are as follows.

(2) The driver must have maintained a list of the names of all passengers being carried on the vehicle for the relevant journey.

(3) For the purposes of paragraph (2), a person who gains unauthorised access to a vehicle is not a passenger.

(4) As soon as practicable after taking an action in regulation 3B, the person concerned must have recorded in writing that the action has been taken.

(5) Where the owner, hirer, or, as the case may be, driver ensures an action set out in regulation 3B(2), (3), (4), (5), (6) or (7) is taken by a third party, that person must include with the written record under this regulation evidence to that effect.

(6) In relation to paragraph (5), the evidence may take the form of an endorsement by the third party on the record that they took the action in question.

(7) The driver must have ensured that copies of the written records referred to in paragraphs (2) and (4) (and any related evidence) are kept with the vehicle.”

#### **Amendments relating to the period within which a penalty notice must be issued**

16. After regulation 3E (inserted by regulation 15 of these Regulations), insert—

##### **“ Clandestine entrants: period within which a penalty notice must be issued**

**3F.** For the purposes of section 35(2)(e) of the Act, a penalty notice relating to a penalty under section 31A(1) or 32(2) of the Act must be issued before the end of 180 days beginning with the date on which the person became responsible for a clandestine entrant.”

#### **Amendments relating to procedural matters**

17.—(1) In regulation 4 (period within which a penalty must be paid)—

- (a) in the heading, after “entrants” insert “and failure to secure a goods vehicle”;
- (b) in paragraph (1)—
  - (i) for “section” substitute “sections 31A(8),”;
  - (ii) for “under section 32” substitute “under section 31A or 32”.

(2) In regulation 5 (prescribed control zone)—

- (a) in the heading, after “entrants” insert “and failure to secure a goods vehicle”;
- (b) in paragraph (1), for “section” substitute “sections 31A(16) and”.

(3) In regulation 6 (period within which a notice of objection must be given), in the heading, after “entrants” insert “, failure to secure a goods vehicle”.

(4) In regulation 7 (period within which the Secretary of State must inform an objector of a decision), in the heading, after “entrants” insert “, failure to secure a goods vehicle”.

(5) In regulation 8 (issue of a penalty notice in relation to detached trailers)—

- (a) in the heading, after “entrants” insert “and failure to secure a goods vehicle”;
- (b) for “the responsible person or persons concerned” substitute—

“—

- (a) in relation to a penalty under section 31A of the Act, the person or persons responsible for the goods vehicle concerned; or
- (b) in relation to a penalty under section 32 of the Act, the responsible person or persons concerned.”

(6) In regulation 14 (presumptions about service of documents)—

- (a) in paragraph (2)—
  - (i) in the words before sub-paragraph (a), after “section 35(10) of the Act,” insert “or for the purposes of section 36A of the Act,”;
  - (ii) after sub-paragraph (b), insert—
    - “(c) where it is issued or served by electronic mail, to the last known business electronic mail address of the person concerned, on the day on which it was sent.”.

### **Amendments relating to the sale of transporters**

**18.**—(1) In regulation 9 (sale of transporters: notice of proposed sale), in paragraph (6)(c)(i) and (ii), for “section 32” substitute “section 31A or 32”.

(2) In regulation 11(1) (period within which the power of sale must be exercised), for “60” substitute “80”.

### **Amendments relating to the standard checks**

**19.** At the end, insert—

## **“SCHEDULE**

Regulation 2

### **The standard checks**

**1.** Where a means of entry to the load space is able to be secured by an optimal method against unauthorised access, a check that it is so secured.

**2.** Where the vehicle has a means of entry to its load space that is not able to be secured by an optimal method against unauthorised access but is able to be secured against unauthorised access by another method, a check that it is so secured.

**3.** Where the vehicle’s cargo is able to be secured by an optimal method against unauthorised access, a check that it is so secured, provided that the cargo can be accessed by the person undertaking the check.

**4.** Where the vehicle’s cargo is not able to be secured by an optimal method against unauthorised access but is able to be secured against unauthorised access by another method, a check that it is so secured, provided that the cargo can be accessed by the person undertaking the check.

**5.** A check of all locks, seals and other security devices for signs of tampering, damage, unauthorised repair and unauthorised replacement.

**6.** A check that the documentation accompanying the vehicle under regulation 2E(8) is all correct.

**7.** Where the vehicle has them, a check of all TIR cables and straps and related eyelets for signs of tampering, damage, unauthorised repair and unauthorised replacement.

**8.** Where the vehicle has a load space that is enclosed (wholly or partly) by an outer shell or by a fabric cover, a check of the outer shell or fabric for signs of unauthorised access.

**9.** A check of all external storage compartments and wind deflectors of the vehicle for signs of unauthorised access.

**10.** A check beneath the vehicle for signs of unauthorised access.

**11.** A check from inside the vehicle for signs of unauthorised access, including of the vehicle’s roof.

**12.** A check that no person has gained unauthorised access to the vehicle.”.

12th January 2023

*Robert Jenrick*  
Minister of State  
Home Office

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Carriers' Liability Regulations 2002 (S.I. 2002/2817) to make provision in relation to penalties for failing to adequately secure a goods vehicle and for persons responsible for the transporting of clandestine entrants into the United Kingdom.

Regulations 4 to 9 insert regulations 2A, 2B, 2C, 2D, 2E and 2F into the Carriers' Liability Regulations 2002, which make provision in relation to section 31A of the Immigration and Asylum Act 1999 (c. 33) ("the Act").

- The new regulation 2A prescribes what is meant by a goods vehicle being adequately secured against unauthorised access.
- The new regulation 2B prescribes the actions to be taken by each person responsible for a goods vehicle in relation to the securing of the vehicle against unauthorised access.
- The new regulation 2C prescribes the actions to be taken by each person responsible for a goods vehicle in relation to checking that no person has gained unauthorised access.
- The new regulation 2D prescribes the actions to be taken by each person responsible for a goods vehicle in relation to the reporting of any unauthorised access to the goods vehicle.
- The new regulation 2E prescribes the actions to be taken by each person responsible for a goods vehicle in relation to the keeping of records to establish that other actions specified in the Regulations have been taken.
- The new regulation 2F prescribes the amounts of the penalties for the failure to secure a goods vehicle by the person responsible.

Regulation 10 amends regulation 3 of the Carriers' Liability Regulations 2002 to prescribe, for the purposes of section 32(2C) of the Act, the maximum penalties payable by a responsible person in respect of a clandestine entrant or person concealed with the person.

Regulations 11 to 16 insert regulations 3A, 3B, 3C, 3D, 3E and 3F into the Carriers' Liability Regulations 2002, which make provision in relation to section 32(2C) of the Act.

- The new regulation 3A prescribes the actions in relation to checking that a person has not gained unauthorised access that must have been taken by a person responsible for a clandestine entrant in a goods vehicle in order to be eligible for a reduction in the amount of a penalty.
- The new regulation 3B prescribes the actions in relation to checking that a person has not gained unauthorised access that must have been taken by a person responsible for a clandestine entrant in a commercially operated bus in order to be eligible for a reduction in the amount of a penalty.
- The new regulation 3C prescribes the actions in relation to checking that a person has not gained unauthorised access that must have been taken by a person responsible for a clandestine entrant in a vehicle that is not a goods vehicle or commercially operated bus in order to be eligible for a reduction in the amount of a penalty.
- The new regulation 3D prescribes the actions relating to reporting unauthorised access that must have been taken by a person responsible for a clandestine entrant in a vehicle other than a goods vehicle in order to be eligible for a reduction in the amount of a penalty.
- The new regulation 3E prescribes the actions relating to the keeping of records that must have been taken by a person responsible for a clandestine entrant in a commercially operated bus in order to be eligible for a reduction in the amount of a penalty.
- The new regulation 3F prescribes the period within which a penalty notice relating to a penalty under section 31A(1) or 32(2) of the Act must be issued.

Regulation 17 amends the Carriers' Liability Regulations 2002 in respect of procedural matters relating to penalty notices. It amends regulations 4, 5, 6, 7, 8 and 14 of the Carriers' Liability Regulations 2002. The amendments to regulation 4 prescribe the period within which a penalty

must be paid. The amendments to regulation 5 prescribe control zones for the purpose of section 31A(16) of the Act. The amendments to regulation 6 prescribe the period within which a notice of objection must be given in relation to penalties under section 31A of the Act. The amendments to regulation 7 prescribe the period within which the Secretary of State must inform an objector of his decision in relation to penalties under section 31A of the Act. The amendments to regulation 8 make provision for the issue of penalty notices in relation to detached trailers in respect of penalties under sections 31A and 32 of the Act. The amendments to regulation 14 set out what amounts to proper service of a document by electronic mail for the purposes of sections 35(1), (7) and (10) and 36A of the Act.

Regulation 18 amends regulations 9 and 11 of the Carriers' Liability Regulations 2002. The amendments to regulation 9 apply it to penalties under section 31A of the Act. The amendments to regulation 11 extend the period within which the Secretary of State must exercise the power of sale in relation to a transporter from 60 to 80 days.

Regulation 19 adds a Schedule to the Carriers' Liability Regulations 2002 that lists the standard checks.

An impact assessment has been produced in relation to these Regulations. It is available from the Home Office, 2 Marsham Street, London, SW1P 4DF and is published alongside these Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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