

English

Civil Penalty - Prevention of Clandestine Entrants: Code of Practice

Code of Practice issued in accordance with section 33 of the Immigration and Asylum Act 1999



Border Force

IMMIGRATION AND ASYLUM ACT 1999

CIVIL PENALTY - CODE OF PRACTICE FOR VEHICLES

This Code of Practice, which is made under section 33 of the Immigration and Asylum Act 1999 (the 1999 Act), sets out the measures to be taken and the procedures to be followed by persons operating a system for preventing the carriage of clandestine entrants to the United Kingdom, in respect of vehicles.

Under section 34(3) of the 1999 Act, where it is alleged a person is liable to a penalty under section 32 of that Act for bringing a clandestine entrant to the United Kingdom it is a defence to show that:

- he did not know and had no reasonable grounds for suspecting that a clandestine entrant was, or might be, concealed in the transporter;
- there was an effective system in operation in relation to the transporter to prevent the carriage of clandestine entrants; and
- on the occasion concerned, the person or persons responsible for operating that system did so properly.

Regard will be had to this Code of Practice in determining whether such a system is effective (section 34(4) of the 1999 Act).



Part 1

Road Haulage and Other Commercial Vehicles

In Part 1 “ Commercial Vehicle ” means any vehicle excluding buses, coaches, cars, taxis, mobile homes and caravans. “ Vehicle ” refers to the entire vehicle, including any attached trailer(s) and any container carried. It also refers to a detached trailer, in the case of which, any reference to “ driver ” is to be read as “operator”.

1.1 Measures to be taken to secure vehicles against unauthorised entry

1.1.1 Before final loading takes place, all existing cuts or tears in the outer shell or fabric of the vehicle, which exceed 25 centimetres in length, must be repaired and sealed so as to prevent unauthorised entry.

1.1.2 If present at the time of final loading, the owner, hirer or driver of the vehicle must check it to ensure that no persons have gained entry and are concealed within. It must then be locked, sealed, or otherwise made secure to prevent unauthorised entry. If not present at the time of final loading the owner, hirer or driver must, where possible, ensure that such checks are conducted at that point by reputable persons and then obtain written confirmation from those persons that these checks were properly conducted and that the vehicle did not contain concealed persons at the time of final loading and securing.

1.1.3 When the final loading has been completed, the load space must be secured immediately by lock, seal or other security device, which prevents unauthorised entry.

1.1.4 Tilt cords and straps, where used, must be undamaged, pass through all fastening points, made taut and be secured by lock, seal or other security device.

1.1.5 There must be no means of entry to the load space, other than via access points which have been secured by lock, tilt cord / strap and seal, or other security device.

1.1.6 Locks, tilt cords, straps and other devices used to secure the load space must be of robust quality and effective.

1.1.7 Seals, other than Customs’ seals, must be distinguished by a number from a series which is unique to the owner, hirer or driver. This must be recorded in documentation accompanying the vehicle.



1.1.8 Where a sealed container (except a container sealed by Customs) is loaded onto a vehicle, the owner, hirer or driver must, where possible, check to ensure that it does not contain unauthorised persons. It must then be resealed and made secure in accordance with the above requirements. These actions and the number of the new seal used must be recorded in documentation accompanying the vehicle.

1.1.9 The same checking, securing and recording procedure detailed in paragraph 1.1.8 above must be followed where the load space in the vehicle has been opened by the owner, hirer, driver, or any other person before the final checks detailed in section 1.2 below are carried out.

1.1.10 Where a new driver becomes responsible for the vehicle en route to the United Kingdom, he should ensure that it does not contain unauthorised persons and that the requirements detailed above have all been met.

1.1.11 Paragraphs 1.1.1 to 1.1.10 above will not apply in relation to any vehicle, which it is not possible to secure by means of lock, seal or other security device. However, in such circumstances it will be for the owner, hirer or driver concerned to establish alternative arrangements to prevent unauthorised entry ; and to be able to demonstrate that such arrangements have been made and complied with.

1.2 Measures to be taken immediately prior to the vehicle boarding the ship, aircraft or train to the United Kingdom, or before arrival at the UK immigration control at Coquelles.

1.2.1 Where used, check tilt cords and straps for evidence of tampering, damage or repair.

1.2.2 Where used, check that seals, locks or other security devices have not been removed, damaged or replaced. In order to ensure that there has been no substitution, numbers on seals must be checked to confirm that they correspond with those recorded on the documentation accompanying the vehicle.

1.2.3 Check the outer shell / fabric of the vehicle for signs of damage or unauthorised entry, paying particular attention to the roof, which may be checked from either inside or outside the vehicle.

1.2.4 Check any external storage compartments, tool boxes, wind deflectors and beneath the vehicle.

1.2.5 Check inside the vehicle. Effective detection devices may be used for this purpose at the discretion of the owner, hirer or driver, but this will not obviate the requirement that the other checks detailed above be carried out. Where it is not possible to secure a vehicle by means of lock, seal or other security device, a thorough manual check of the load and load space must be conducted.



General Principles

1.3.1 Vehicles should be checked regularly en route to the United Kingdom to ensure that they have not been entered, particularly after stops when left unattended.

1.3.2 A document detailing the system operated to prevent unauthorised entry must be carried with the vehicle, so that it may be produced immediately to an immigration officer on demand in the event of possible liability to a penalty.

1.3.3 A report detailing the checks that were carried out must be carried with the vehicle. If possible to arrange, the report should be endorsed by a third party, who has either witnessed or carried out the checks himself by arrangement with the owner, hirer or driver, as the report will then be of greater evidential value.

1.3.4 Whilst owners, hirers or drivers may contract with other persons to carry out the required checks on their behalf, they will nevertheless remain liable to any penalty incurred in the event of failure to have an effective system in place or to operate it properly on the occasion in question.

1.3.5 Where the checks conducted suggest that the security of the vehicle may have been breached, or the owner, hirer or driver otherwise has grounds to suspect that unauthorised persons have gained entry to the vehicle, it must not be taken onto the ship, aircraft or train embarking for the United Kingdom, or to the UK immigration control at Coquelles. Any such circumstances must be reported to the police in the country concerned at the earliest opportunity, or at the latest, to the passport control authorities at the port of embarkation. In the event of difficulties arising, owners, hirers or drivers should contact the United Kingdom Immigration Service at the proposed port of arrival for advice.



Part 2

Buses and Coaches

In Part 2 reference to “ vehicle ” includes any attached trailer(s).

2.1 Measures to be taken to secure vehicles against unauthorised entry

2.1.1 The vehicle and any compartments accessible from the outside must be capable of being made secure with a lock which prevents unauthorised entry.

2.1.2 The vehicle must be locked when unattended and any compartments (eg, luggage space), which are accessible from the outside, must be kept locked when not being accessed.

2.1.3 The owner, hirer or driver must supervise whenever passengers board or alight from the vehicle and when baggage or belongings are loaded or unloaded, to ensure that unauthorised persons do not use that opportunity to gain entry.

2.1.4 The owner, hirer or driver must keep a manifest detailing the names of all persons whom he knowingly carries in the vehicle onto the ship, aircraft or train embarking for the United Kingdom, or to the UK immigration control at Coquelles.

2.2 Measures to be taken immediately prior to the vehicle boarding the ship, aircraft or train to the United Kingdom, or before arrival at the UK immigration control at Coquelles

2.2.1 All spaces in or on the vehicle, which are capable of containing a person, must be checked before the vehicle is taken on board, or arrives at the immigration control in Coquelles, to ensure that no unauthorised person has gained entry.

2.2.2 Toilets, luggage space and any space accessible from the outside must then be kept locked until the vehicle passes through UK immigration control.

2.2.3 Before passing through UK immigration control, a check must be carried out to ensure that all persons shown on the passenger manifest, are accounted for.



2.3 General Principles

2.3.1 A document detailing the system operated to prevent unauthorised entry must be carried with the vehicle so that it may be produced to an immigration officer on demand in the event of possible liability to a civil penalty.

2.3.2 A report detailing the checks that were carried out must be kept with the vehicle. If possible to arrange, the report should be endorsed by a third party, who has either witnessed or carried out the checks himself, as the report will then be of greater evidential value.

2.3.3 Whilst owners, hirers or drivers may contract with other persons to carry out the required checks, they will remain liable to any penalty incurred in the event of failure to have an effective system in place or to operate it properly on the occasion in question.

2.3.4 Where the checks conducted suggest that the security of the vehicle may have been breached, or that an unauthorised person or persons are on board, the vehicle must not be taken onto the ship, aircraft or train embarking for the United Kingdom, or to the UK immigration control at Coquelles. Any such circumstances must be reported to the police in the country concerned, or at the latest, to the passport authorities at the port of embarkation. In the event of difficulties arising, owners, hirers or drivers may contact the United Kingdom Immigration Service at the proposed port of arrival for advice.



Part 3

Private Vehicles

In Part 3 reference to “ private motor vehicle ” or “ vehicle ” means any car, taxi, mobile home or caravan and includes any attached trailer(s).

3.1 Measures to be taken to secure vehicles against unauthorised entry

3.1.1 Where possible, all access to the interior or luggage space of the vehicle must be protected by a lock or locks, which prevent unauthorised entry.

3.1.2 All locks, where fitted, must be engaged whenever the vehicle is left unattended.

3.1.3 Intruder alarms, where fitted, must be made active whenever the vehicle is left unattended.

3.2 Measures to be taken immediately prior to boarding the ship, aircraft or train embarking for the United Kingdom, or before arrival at the UK immigration control at Coquelles.

3.2.1 Check that the security measure detailed in paragraphs 3.1.1 to 3.1.3 above have not been breached, particularly where the vehicle has been left unattended for any period en route to the port of embarkation.

3.2.2 Check all places in the vehicle that might lend themselves to concealment, such as the boot, attached trailers and where included in the vehicle, all toilets and cupboards. This is particularly important where the vehicle cannot be made secure by a lock or locks.

3.3 General Principles

3.3.1 Vehicle keys must be kept securely and should not be passed to persons unknown to the owner, hirer or driver.



3.3.2 If there is cause to suspect that an unauthorised person or persons may have gained entry to the vehicle, it must not be taken onto the ship, aircraft or train embarking for the United Kingdom, or to the UK immigration control at Coquelles. Any such circumstances must be reported immediately to the police in the country concerned at the earliest opportunity, or at the latest, to the passport control authorities at the port of embarkation. In the event of difficulties arising, owners, hirers or drivers may contact the United Kingdom Immigration Service at the proposed port of arrival for advice.

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