

2001 No. 3233

IMMIGRATION AND ASYLUM

The Carriers' Liability (Clandestine Entrants) (Code of Practice for Freight Shuttle Wagons) Order 2001

Made - - - - - *27th September 2001*

Laid before Parliament *28th September 2001*

Coming into force - - *1st October 2001*

Whereas—

(1) in pursuance of section 33 of the Immigration and Asylum Act 1999(a) (“the 1999 Act”), as applied by the Carriers' Liability (Clandestine Entrants) (Application to Rail Freight) Regulations 2001(b) (“the principal Regulations”), the Secretary of State is required to issue a code of practice to be followed by any person operating a system for preventing the carriage of clandestine entrants by rail freight wagons;

(2) the principal Regulations are amended by the Carriers' Liability (Clandestine Entrants) (Application to Rail Freight) (Amendment) Regulations 2001(c) (“the amending Regulations”), which extend the definition of “rail freight wagon” in the principal Regulations to include freight shuttle wagons(d);

(3) the amending Regulations are now in force for the purpose of enabling the exercise of the power to bring into operation a code of practice for freight shuttle wagons;

(4) as required by section 33(2) of the 1999 Act, the Secretary of State has—

- (a) consulted such persons as he considers appropriate about the code of practice; and
- (b) laid a draft of the code of practice before each House of Parliament;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 33 of the Immigration and Asylum Act 1999 hereby makes the following Order:

1. This Order may be cited as the Carriers' Liability (Clandestine Entrants) (Code of Practice for Freight Shuttle Wagons) Order 2001, and shall come into force on 1st October 2001.

(a) 1999 c. 33.

(b) S.I. 2001/280, which apply certain provisions of Part II of the 1999 Act (in some cases with modification) for the purposes of enabling penalties to be imposed in respect of certain persons who arrive in the United Kingdom concealed in a rail freight wagon.

(c) S.I. 2001/3232.

(d) By regulation 1(3) of the principal Regulations, as amended by regulation 2(2) of the amending Regulations, “freight shuttle wagon” means a wagon which (a) forms part of a shuttle train, and (b) is designed for the purpose of carrying heavy commercial goods vehicles; and “shuttle train” has the meaning given by section 1(9) of the Channel Tunnel Act 1987 (c. 53).

2. The code of practice entitled “Civil Penalty: Code of Practice for Channel Tunnel Freight Shuttle Wagons”, which was laid in draft before each House of Parliament on 25th September 2001 and concerns the practice to be followed by any person operating a system for preventing the carriage of clandestine entrants concealed in freight shuttle wagons, shall come into operation on 1st October 2001.

Home Office

27th September 2001

Jeff Rooker
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation on 1st October 2001 a further code of practice issued pursuant to section 33 of the Immigration and Asylum Act 1999, as applied by the Carriers' Liability (Clandestine Entrants) (Application to Rail Freight) Regulations 2001 (S.I. 2001/280). This code of practice is to be followed by any person operating a system for preventing the carriage of clandestine entrants by freight shuttle wagons, and is to be taken into account in determining whether a person who has transported clandestine entrants was operating an effective system for preventing their carriage, and accordingly has a defence to the penalty under section 34 of the Act.

A code of practice in respect of the prevention of the carriage of clandestine entrants by road vehicles was brought into operation on 3rd April 2000, by the Carriers' Liability (Clandestine Entrants) (Code of Practice) Order 2000 (S.I. 2000/684). A code of practice in respect of the prevention of the carriage of clandestine entrants by rail freight wagons (other than freight shuttle wagons) was brought into operation on 1st March 2001, by the Carriers' Liability (Clandestine Entrants) (Code of Practice for Rail Freight) Order 2001 (S.I. 2001/312).

Copies of all three codes of practice may be obtained from: Miss S. Hoddell, Civil Penalty Central Administration Unit, Status Four, 3 Nobel Drive, Harlington, Hayes, Middlesex UB3 5EY; or by e-mail from: *CivilPenaltyUnit@homeoffice.gsi.gov.uk*. The codes are also available on the Home Office website (*www.ind.homeoffice.gov.uk*).

£1.50

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1702 10/2001 660505 19585

ISBN 0-11-029999-X



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