

Illegal Immigrants - Advice for Coach Operators

The following advice was issued to routeONE by the UK Border Agency (in September 2009) and it applies to passenger operators and hauliers alike.

The Confederation of Passenger Transport UK (CPT) also provides advice (and a sample checklist) to its members in an 'operational briefing' which can be downloaded from the 'members only' area of its website www.cpt-uk.org

UK Border Agency advice

All vehicles, including coaches, entering the United Kingdom juxtaposed control zone are liable to search. In the event that clandestine entrants are found in their vehicle, drivers, owners and hauliers may be liable for a civil penalty.

The UK Border Agency recommends that drivers should check their vehicle and the security devices after each rest stop.

However, if drivers are concerned about personal risk from contact with clandestines or their 'agents' we would advise them to contact the police in the country concerned at the earliest opportunity.

In the event that clandestine entrants are discovered or suspected, the driver is strongly advised to contact the local police and advise them of their concerns. It is vital that the driver does not proceed to cross into the UK Control Zone carrying or suspecting clandestine entrants in they want to be sure of avoiding the possibility of a penalty being imposed.

If the driver has been unable to report to the local police, the Code of Practice requires that any concerns are reported to the officer at the relevant passport control at the port of embarkation.

In the event of any difficulties, the driver should contact the UK Border Agency port offices at the proposed port of arrival for advice. In Northern France this will be the UK Border Agency offices in Calais, Coquelles, Boulogne or Dunkerque. Elsewhere it will be the port of arrival in the UK.

The Civil Penalty regime, introduced in April 2000, encourages road hauliers and others involved in international road transport to secure and check their vehicles to prevent unauthorised access by potential clandestine entrants before commencing their journey to the UK. It continues to play a significant part in the government's strategy of reducing the number of persons arriving in the UK concealed in vehicles. The introduction of the

regime is believed to have contributed significantly toward a major reduction in the numbers of clandestine entrants entering the UK.

Under Home Office legislation, when a clandestine entrant is encountered in a vehicle, those responsible may be liable to the imposition of a penalty. The maximum penalty is £2,000 per clandestine entrant, although any penalty imposed is variable depending on the extent of the steps taken to prevent clandestine entry. The Level of Penalty: Code of Practice addresses the matters which the Secretary of State must take into account when determining the amount of penalty which must be paid by the person responsible for a clandestine entrant.

However, hauliers can avoid this penalty if they can demonstrate that they have an effective system to prevent clandestine entry in place. They also need to prove that such measures were operated properly on the day of the incident. Generally if this is the case, no penalty will be imposed regardless of the fact that clandestines have been detected.

The Home Office 'Prevention of Clandestine Entrants: Code of Practice', which was drawn up in consultation with the road transport industry, including members of the passenger transport industry, sets out the measures to be taken and the procedures to be followed by owners, hirers and drivers of vehicles to prevent the carriage of clandestine entrants. This is available on our website www.ukba.homeoffice.gov.uk/lawandpolicy/civilpenalty

To help ensure that those working in road transport have the right measures in place, the Home Office recommends the following:

Owners/Hirers/Employers:

- provide written instructions to drivers on the system of prevention of clandestine entry to be operated, and for these instructions to be carried in each vehicle for presentation to an Immigration Officer on demand;
- train drivers in the prevention of clandestine entry, use and application of security equipment, searching procedures etc;
- provide adequate security equipment to secure the vehicle against clandestine entry;
- supply checklists for completion by drivers throughout their journey, to confirm the checks made, for presentation to an Immigration Officer on demand; and
- monitor driver compliance with instructions and training given, through review of completed checklists.

Drivers:

- secure the vehicle, applying security devices properly;
- check the vehicle after every stop for evidence of clandestine entry and tampering with the security devices;
- record checks conducted on a checklist; and
- present the written instructions and completed checklist to an Immigration Officer on demand.

Reports have circulated that drivers who volunteer for search by officers of the UK Border Agency will not be liable for a penalty if clandestine entrants are found. This is not true. Whilst the actions of such drivers will be taken into consideration, unless all (or at least most) parts of an effective system were in place and operated properly, it is likely that a penalty will be imposed. The level of penalty, however, will take into account the driver's action.

To assist drivers with operating an effective system in preventing the carriage of clandestine entrants, the Home Office provide a leaflet entitled 'How to avoid a penalty' which provides useful advice. In addition we provide an aid for drivers with a sample checklist on the reverse.

We also operate a Civil Penalty Accreditation Scheme for companies who can show that they operate an effective system. This means penalties are not imposed on them, even if clandestine entrants are discovered in their vehicles. Companies who operate effective systems for the prevention of clandestine entry are encouraged to join this scheme. More information about this scheme is available on our website:

www.ukba.homeoffice.gov.uk/aboutus/workingwithus/transportindustry/vehicleoperators

The application process is simple to follow and once accreditation is given we also assure the system by monitoring its members.