

1990 No. 2227

CHANNEL TUNNEL

The Channel Tunnel (Fire Services, Immigration and
Prevention of Terrorism) Order 1990

<i>Made</i> - - - -	<i>8th November 1990</i>
<i>Laid before Parliament</i>	<i>9th November 1990</i>
<i>Coming into force</i>	<i>1st December 1990</i>

In exercise of the powers conferred upon me by sections 11 and 13(1) of the Channel Tunnel Act 1987(a), I hereby make the following Order:

1. This Order may be cited as the Channel Tunnel (Fire Services, Immigration and Prevention of Terrorism) Order 1990 and shall come into force on 1st December 1990.

2.—(1) For the purpose of enabling functions to be exercised under the Fire Services Act 1947(b) (“the 1947 Act”), including the making of such schemes and arrangements as may be made under section 2(1) and (8) and section 12(1) of the 1947 Act, that Act shall have effect—

- (a) in relation to the part of the tunnel system beyond the frontier as if that part formed part of the county of Kent, and
- (b) in relation to the tunnel system as if—
 - (i) a relevant French authority were a fire authority within the meaning of the 1947 Act, and
 - (ii) members of a brigade maintained by that authority were members of a brigade maintained in pursuance of that Act.

(2) Where, in connection with the exercise of any functions under the 1947 Act in relation to the tunnel system, a member of a brigade is in transit to or from the tunnel system and is outside the United Kingdom he shall be treated as if he were a member of a brigade employed by a fire authority outside its area under section 3(1)(d) of the 1947 Act.

(3) In paragraph (1) above “a relevant French authority” means a French fire authority which is to exercise functions in relation to the tunnel system.

(4) Section 2(3), (5) and (9) and section 12(2) to (5) of the 1947 Act (functions of the Secretary of State) shall not apply for the purposes of this article.

3. The provisions of the Immigration Act 1971(c) and the Immigration Act 1988(d) shall have effect subject to the amendments set out in Parts I and II respectively of Schedule 1.

4. The provisions of the Prevention of Terrorism (Temporary Provisions) Act 1989(e) shall have effect subject to the amendments set out in Schedule 2.

(a) 1987 c.53.
(c) 1971 c.77.
(e) 1989 c.4.

(b) 1947 c.41.
(d) 1988 c.14.

SCHEDULE 1

Article 3

PART I

AMENDMENTS OF IMMIGRATION ACT 1971

1. In section 4(2)(b), after the words "by ship or aircraft" there shall be inserted the words "or through the tunnel system".
2. In section 10(1), after the word "aircraft" in both places where it occurs there shall be inserted the words "or through the tunnel system".
3. After section 11(1) there shall be inserted the following subsection—

"(1A) A person arriving in the United Kingdom through the tunnel system shall for the purposes of this Act be deemed not to enter the United Kingdom unless and until he has left the tunnel system, and, subject to subsection (1) above, a person who has not otherwise entered the United Kingdom shall be deemed not to do so as long as he is detained, or temporarily admitted or released while liable to detention, under the powers conferred by Schedule 2 to this Act."
4. In section 27, at the end there shall be inserted the following paragraph—

"(d) if, as the Concessionaires,—

 - (i) they fail, without reasonable excuse, to make arrangements for the removal of a person from the United Kingdom when required to do so by directions given under Schedule 2 to this Act, or
 - (ii) they fail, without reasonable excuse, to observe any conditions or restrictions notified to them under Schedule 2 to this Act in relation to a control area."
 5. In section 33(1)—
 - (a) after the definition of "certificate of entitlement" there shall be inserted the following definition—

" "Concessionaires" has the same meaning as in the Channel Tunnel Act 1987;" ; and
 - (b) after the definition of "ship", there shall be inserted the following definition—

" "tunnel system" has the same meaning as in the Channel Tunnel Act 1987;" .
 6. In paragraph 1 of Schedule 2—
 - (a) in sub-paragraph (4), for the words "or aircraft" there shall be substituted the words ", aircraft or, where it has arrived in, or is seeking to leave, the United Kingdom through the tunnel system, vehicle"; and
 - (b) in sub-paragraph (5), for the words "or aircraft" in the first place where they occur there shall be substituted the words ", aircraft or, where it has arrived in, or is seeking to leave, the United Kingdom through the tunnel system, vehicle".
 7. In paragraph 2(1) of Schedule 2, for the words "or aircraft" there shall be substituted the words ", aircraft or through the tunnel system".
 8. In paragraph 3 of Schedule 2 after the words "United Kingdom", in both places where they occur, there shall be inserted the words "or leaving or seeking to leave the United Kingdom through the tunnel system."
 9. In paragraph 8(1)(c) of Schedule 2, after the words "owners or agents" there shall be inserted the words ", or where the person has arrived through the tunnel system, the Concessionaires,".

10. After paragraph 16(4) of Schedule 2, there shall be inserted the following sub-paragraph-

“(4A) A person in a vehicle may, where he has arrived in the United Kingdom through the tunnel system in that vehicle, under the authority of an immigration officer, be removed from the vehicle for detention under this paragraph.”.

11. In paragraph 19(1) of Schedule 2, after the words “in which he arrived” there shall be inserted the words “, or, where the person has arrived through the tunnel system, the Concessionaires,”.

12. In paragraph 20(1) of Schedule 2, after the words “in which he arrived in the United Kingdom” there shall be inserted the words “, or, where the person has arrived through the tunnel system, the Concessionaires,”.

13. After paragraph 27 of Schedule 2, there shall be inserted the following paragraph-

Supplementary duties of the Concessionaires

“27A. The Secretary of State may from time to time give written notice to the Concessionaires designating control areas for entry into or departure from the United Kingdom through the tunnel system and specifying the conditions and restrictions (if any) to be observed in any control area; and where by notice given to the Concessionaires a control area is for the time being designated for entry into or departure from the United Kingdom, the Concessionaires shall take all reasonable steps to secure that any conditions or restrictions notified to them are observed.”.

PART II

AMENDMENT OF IMMIGRATION ACT 1988

In section 8, after subsection (7) there shall be inserted the following subsection-

“(8) The reference in this section to the port at which a person seeks to enter the United Kingdom includes the terminal area in the tunnel system at Cheriton, Folkestone and the service and maintenance area at the Old Dover Colliery site referred to in section 1(7)(b) and (c) of the Channel Tunnel Act 1987.”.

SCHEDULE 2

Article 4

AMENDMENTS OF PREVENTION OF TERRORISM (TEMPORARY PROVISIONS) ACT 1989

1. In section 20(1)-

(a) after the definition of “captain” there shall be inserted the following definition-

“ “Concessionaires” has the same meaning as in the Channel Tunnel Act 1987;”;

(b) after the definition of “terrorism”, there shall be inserted the following definition-

“ “the tunnel system” has the same meaning as in the Channel Tunnel Act 1987;”.

2. In paragraph 2(1) of Schedule 5 after the words “by ship or aircraft” there shall be inserted the words “or who has arrived in, or is seeking to leave, the United Kingdom through the tunnel system,”.

3. In paragraph 4(1) and (2) of Schedule 5 for the words “or aircraft” there shall be substituted in all the places where they occur the words “, aircraft or, where it has arrived in , or is seeking to leave, the United Kingdom through the tunnel system, vehicle”.

4. After paragraph 9(2) of Schedule 5 there shall be added the following sub-paragraph-

“(3) The Secretary of State may from time to time give written notice to the Concessionaires designating control areas for entry into or departure from the United Kingdom through the tunnel system and specifying the conditions and restrictions (if any) to be observed in any control area; and where by notice given to the Concessionaires a control area is for the time being designated for entry into or departure from the United Kingdom, the Concessionaires shall take all reasonable steps to secure that any conditions or restrictions notified to them are observed.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Channel Tunnel Act 1987, affects legislation relating to fire services, immigration and prevention of terrorism in its application to the Channel Tunnel system.

The Order ensures that the provisions of the Fire Services Act 1947 extend to the Channel Tunnel system beyond the frontier for the purpose of enabling functions to be exercised under that Act; that arrangements for mutual assistance can be made with, and functions can be exercised by, French fire authorities under that Act in relation to the Channel Tunnel system; and that firefighters travelling to or from that system outside the United Kingdom are treated as members of a brigade employed by a fire authority outside its area under the 1947 Act.

Schedule 1 contains amendments of the Immigration Act 1971 to give an immigration officer the power to examine people entering or leaving the United Kingdom by the Channel Tunnel system in accordance with his powers under the 1971 Act. If a person who has arrived through the Channel Tunnel system is refused leave to enter the United Kingdom or is an illegal entrant, he may be removed from the United Kingdom. The immigration officer may also detain a person who has arrived in this way pending a decision to give or refuse leave to enter or his removal from the United Kingdom. The amendments of the 1971 Act also provide for immigration control areas for entry into and departure from the United Kingdom through the Channel Tunnel system. A person who intends to enter the United Kingdom by the Channel Tunnel system may also be examined for immigration purposes before arrival as a result of an amendment of the Immigration Act 1988.

The amendments of the Prevention of Terrorism (Temporary Provisions) Act 1989 contained in Schedule 2 to this Order give examining officers for the purposes of that Act the power to examine any person who has arrived in, or is seeking to leave, the United Kingdom through the Channel Tunnel system. In addition, an examining officer may search any vehicle, in connection with travel through the Channel Tunnel system, for the purposes set out in paragraph 4(1) and (2) of Schedule 5 to the 1989 Act. The amendments also provide for control areas to be designated by the Secretary of State for entry into, and departure from, the United Kingdom through the Channel Tunnel system.

95p net

ISBN 0 11 005227 7

Printed in the United Kingdom for HMSO

790/WO 1928 C25 11/90 452/1 9385/1374/8766 88352