
STATUTORY INSTRUMENTS

1994 No. 1405

The Channel Tunnel (Miscellaneous Provisions) Order 1994

Citation and commencement

1.—(1) This Order may be cited as the Channel Tunnel (Miscellaneous Provisions) Order 1994 and, except as provided in paragraphs (2) and (3) below, shall come into force on the date on which the Agreement between the Government of the Kingdom of Belgium, the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Rail Traffic between Belgium and the United Kingdom Using the Channel Fixed Link enters into force. That date will be notified in the London, Edinburgh and Belfast Gazettes.

(2) Article 8 shall, to the extent necessary to give effect to those of the amendments specified in Schedule 4 that are mentioned in paragraph (3) below, come into force on 1st July 1994.

(3) The amendments are—

- (a) those specified in paragraphs 6, 8(b), 9, 10 and 12 of Schedule 4, and
- (b) those specified in paragraph 11 of Schedule 4 except the amendments to paragraphs 1(11) (d) and 3(b) of Schedule 4 to the 1993 Order.

Interpretation

2.—(1) In this Order, except for the purpose of construing the tripartite articles, and in any enactment as applied by it with modifications, any expression for which there is an entry in the first column of Schedule 1 has the meaning given against it in the second column.

(2) In this Order “the authorised purposes” means—

- (a) purposes for which provision is authorised by any of paragraphs (a), (d) and (g), and
- (b) purposes connected with any matter in relation to or with respect to or for regulating which provision is authorised by any of paragraphs (c), (e), (f) and (h),

of section 11(1) of the Channel Tunnel Act 1987.

(3) In this Order “the tripartite articles” means the provisions set out—

- (a) in Part I of Schedule 2 (being Articles or parts of Articles of the Agreement mentioned in article 1 above), and
- (b) in Part II of Schedule 2 (being Articles or parts of Articles of the Protocol attached to and forming part of that Agreement);

and in the tripartite articles the expression “the Fixed Link” shall for the purposes of this Order be taken to have the same meaning as is given to “the tunnel system” by section 1(7) of the Channel Tunnel Act 1987.

Application of tripartite articles

3.—(1) The tripartite articles shall have the force of law in the United Kingdom—

- (a) within a control zone, and
- (b) elsewhere for the authorised purposes only.

(2) Without prejudice to paragraph (1) officers belonging to the Kingdom of Belgium and officers belonging to the French Republic shall to the extent specified in the tripartite articles have rights and obligations and powers to carry out functions in the United Kingdom.

(3) For the purpose of giving full effect to Article 17 of the Part II provisions (accommodation, etc., for Belgian authorities) the appropriate Minister may by written notice require any occupier or person concerned with the management of a terminal control point to provide such accommodation, installations and equipment as may be necessary to satisfy requirements determined under Article 16 of the Protocol mentioned in article 2(3)(b) above (which requires the competent authorities of the Kingdom of Belgium and of the United Kingdom to determine their respective requirements in consultation with one another).

Application of enactments

4.—(1) All frontier control enactments shall for the purpose of enabling officers belonging to the United Kingdom to carry out frontier controls extend—

- (a) to France within a control zone, and
- (b) to Belgium within a control zone.

(2) Data used or processed in a control zone in Belgium, in connection with his responsibilities or duties, by a person who by virtue of section 38 of the Data Protection Act 1984⁽¹⁾ (“the 1984 Act”) falls to be treated for the purposes of the 1984 Act as a servant of a government department, or of a chief officer or other person or authority mentioned in subsection (3) of that section, shall be treated—

- (a) for the purposes of section 39(1) of the 1984 Act, as being held in the United Kingdom, and
- (b) for the purposes of section 39(5), as being used or intended to be used in the United Kingdom,

and the 1984 Act shall accordingly apply to the data.

(3) Data used or processed in a control zone in the United Kingdom, in connection with his responsibilities or duties, by an officer belonging to the Kingdom of Belgium shall be treated—

- (a) for the purposes of section 39(1) of the 1984 Act, as being held outside the United Kingdom, and
- (b) for the purposes of section 39(5), as not being used or intended to be used in the United Kingdom,

and the 1984 Act shall accordingly not apply to the data.

Application of criminal law

5.—(1) Any act or omission which—

- (a) takes place outside the United Kingdom in a control zone, and
- (b) would, if taking place in England, constitute an offence under a frontier control enactment,

shall be treated for the purposes of that enactment as taking place in England.

(2) Summary proceedings for anything that is by virtue of paragraph (1) an offence triable summarily or triable either way may be taken, and the offence may for all incidental purposes be treated as having been committed, in the county of Kent or in the inner London area as defined in section 2(1)(a) of the Justices of the Peace Act 1979⁽²⁾.

(1) 1984 c. 35.

(2) 1979 c. 55; section 2 was repealed in part by the Local Government Act 1985 (c. 51), section 102 and Schedule 17.

(3) Any jurisdiction conferred by virtue of paragraphs (1) and (2) on any court is without prejudice to any jurisdiction exercisable apart from this article by that or any other court.

(4) Where it is proposed to institute proceedings in respect of an alleged offence in any court and a question as to the court's jurisdiction arises under Article 11(2) of the Part I provisions, it shall be presumed, unless the contrary is proved, that the court has jurisdiction by virtue of that Article.

Powers of officers

6. Schedule 3 (which contains provision as to powers exercisable by constables and other officers) shall have effect.

Enactments modified

7. Without prejudice to the generality of articles 4(1) and 5(1), the Immigration Act 1971(3), the Public Health (Control of Disease) Act 1984(4) and the Prevention of Terrorism (Temporary Provisions) Act 1989(5) shall—

- (a) in their application to France and Belgium by virtue of article 4(1), and
- (b) in their application to the United Kingdom for the authorised purposes,

have effect with modifications the same as those set out in Schedule 4 to the 1993 Order.

Amendments of instruments

8. The instruments mentioned in Schedule 4 shall have effect with the amendments there specified.

19th May 1994

Mackay of Clashfern, C.

Home Office
23rd May 1994

Michael Howard
One of Her Majesty's Principal Secretaries of
State

Signed by authority of the Secretary of State of Health

23rd May 1994

Cumberlege
Parliamentary Under Secretary of State
Department of Health

23rd May 1994

Gillian Shephard
Minister of Agriculture, Fisheries and Food

(3) 1971 c. 77.
(4) 1984 c. 22.
(5) 1989 c. 4.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

24th May 1994

Martin Brown
Commissioner of Customs and Excise