

SCHEDULE 3

Article 6

POWERS OF OFFICERS

1. Part I of Schedule 3 to the 1993 Order shall, with the variations set out in paragraphs 2 to 7 below, be taken to apply as if it were contained in this Order.

2. Omit paragraph 1.

3. In paragraph 2—

(a) for the words “a control zone in France”, wherever occurring, substitute “a control zone in France or Belgium”;

(b) in sub-paragraph (1)(a) for the words “the 1984 Act” substitute “the Police and Criminal Evidence Act 1984 (in this Schedule referred to as “the 1984 Act”)”; and

(c) for sub-paragraphs (4) to (6) substitute—

“(4) Sub-paragraph (5) applies where—

(a) an arrest has been made for an offence of the kind mentioned in Article 12 of the Part I provisions, and

(b) the person arrested enters France or Belgium (“the State of arrival”) while under arrest.

(5) If jurisdiction is not asserted by the State of arrival, the person arrested shall be treated as having continued to be under arrest throughout, notwithstanding any intervening transfer of custody to a person other than the person who arrested him, and sections 30 and 41 of the 1984 Act shall apply accordingly.”.

4. In paragraph 3—

(a) in sub-paragraph (1)—

(i) for the words “a control zone in France” substitute “a control zone in France or Belgium”,

(ii) after the words “held in France” insert “or, as the case may be, Belgium”, and

(iii) omit the words after “24 hours”;

(b) in sub-paragraph (2)—

(i) for the words “sub-paragraphs (3) and (4)” substitute “sub-paragraph (4)”, and

(ii) for the words from “the provisions” to “the 1984 Act” substitute “sections 36(7) and (8), 54 to 56, 58 and 61 to 63 of the 1984 Act and in the case of a child or young person section 34(2) to (7), (8) and (9) of the Children and Young Persons Act 1933”(1);

(c) omit sub-paragraph (3); and

(d) in sub-paragraph (4) after the words “in France” insert “or Belgium”.

5. In paragraph 4—

(a) for sub-paragraphs (1) and (2) substitute—

“(1) Where a constable is satisfied that an arrest made outside the United Kingdom on a through train was one falling within Article 13 or 14 of the Part I provisions (persons found committing, attempting to commit or just having committed an offence) he may arrange for the person arrested to be taken into temporary custody.

(2) A person taken into temporary custody under sub-paragraph (1)—

(1) 1933 c. 12; section 34(2) to (7) and (8) to (11) were substituted by the Police and Criminal Evidence Act 1984 (c. 60), section 57, section 34(7) and (8) were amended, and section 34(7A) inserted, by the Children Act 1989 (c. 41), section 108(5) and (7), Schedule 13 paragraph 6, and Schedule 15.

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- (a) shall be treated for all purposes as being in lawful custody, and
- (b) may be taken to a police station or such other place as may be appropriate in the circumstances, and shall in that case be treated as being a person in whose case sections 36(7) and (8), 54 to 56 and 58 of the 1984 Act, and in the case of a child or young person section 34(2) to (7), (8) and (9) of the Children and Young Persons Act 1933, apply,

and arrangements must be made for him to be transferred within 24 hours from the time at which he was taken into custody to the State having jurisdiction by virtue of Article 11(1) of the Part I provisions.

(2A) Where an arrest has been made for an offence in respect of which the United Kingdom may have jurisdiction as the State of arrival by virtue of Article 11(2) of the Part I provisions the person arrested shall be taken to a police station.

(2B) The custody officer at the police station to which the person is taken shall consider whether the offence is one in respect of which the United Kingdom has jurisdiction by virtue of Article 11(2) of the Part I provisions and may for that purpose detain the person at the police station for not longer than the permitted period.”;

- (b) in sub-paragraph (3) for the words “48 hours” substitute “24 hours”;
- (c) for sub-paragraph (5) substitute—

“(5) Where the custody officer reaches the conclusion that the United Kingdom does not have jurisdiction by virtue of Article 11(2) he shall immediately inform the competent authorities of the State appearing to him to have jurisdiction by virtue of Article 11(1) that he has reached that conclusion and shall arrange for the person to be transferred to that State within the permitted period.”; and

- (d) in sub-paragraph (6)—
 - (i) for the words from “determines” to “exercised” substitute “reaches the conclusion that the United Kingdom has jurisdiction by virtue of Article 11(2)”, and
 - (ii) for the word “determination”, wherever occurring, substitute “conclusion”.”.

6. In paragraph 5—

- (a) in sub-paragraph (1)—
 - (i) after the words “the French Republic” insert “or to the Kingdom of Belgium”, and
 - (ii) omit the words “the tunnel system or”;
- (b) in sub-paragraph (2)—
 - (i) for the word “France” substitute “the State to which he belongs (‘the home State’)”,
 - (ii) for the words “French authorities” substitute “authorities of the home State”, and
 - (iii) for the words from “Article 30(2)” to “jurisdiction” substitute “Article 14(2) of the Part II provisions come under the jurisdiction of the home State”;
- (c) in sub-paragraph (3) for the words “enter France” substitute “leave the United Kingdom”;
- (d) in sub-paragraph (5) for the words “French authorities” substitute “authorities of the home State”;
- (e) in sub-paragraph (6) for the words “48 hours” substitute “24 hours”; and
- (f) in sub-paragraph (8)—
 - (i) for the words “French jurisdiction” substitute “the jurisdiction of the home State”,
 - (ii) for the words “Article 30(2)” substitute “Article 14(2)”,
 - (iii) for the words “French authorities” substitute “authorities of the home State”, and

(iv) for the word “France” substitute “the home State”.

7. In paragraph 6—

- (a) in sub-paragraph (1) for the words “in the tunnel system or” substitute “or Belgium in”;
- (b) in sub-paragraph (2)—
 - (i) for the words “French authorities” substitute “authorities of the State in which the act was performed (‘the State concerned’),”, and
 - (ii) for the words “Article 30(2) of the international articles” substitute “Article 14(2) of the Part II provisions”;
- (c) in sub-paragraph (5) for the words “French authorities” substitute “authorities of the State concerned”;
- (d) in sub-paragraph (6) for the words “48 hours” substitute “24 hours”; and
- (e) in sub-paragraph (8)—
 - (i) for the words “French authorities” substitute “authorities of the State concerned”,
 - (ii) for the words “Article 30(2)” substitute “Article 14(2)”, and
 - (iii) for the word “France” substitute “the State concerned”.