
EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to the Treaty between the United Kingdom and France providing for the exercise of immigration control by the authorities of each State in the sea ports of the other State. The ports in question to which the two States have agreed the Treaty should for the time being apply are designated in Schedule 1 to the Order. Within each port the two States have delimited an area comprising a Control Zone within which the immigration authorities of each State will be empowered to exercise immigration control in the territory of the other State. Criminal offences and powers of arrest relating to breaches of immigration control will be extended to the Control Zone and immigration officers may call upon the assistance of the police in exercising these powers. In addition, some offences which are committed by or against immigration officers or the police will apply in the Control Zone. The area comprising the Control Zone has been confirmed through the exchange of diplomatic notes between the two States and a copy can be obtained by writing to the address set out at the end of this Note.

Part 1 of the Order provides for its commencement and defines some of the terms used in the Order. Article 1 provides that, save for article 10, the Order comes into force on the date when the Treaty enters into force. Article 10, which allows the Secretary of State to require a manager of a designated port in the United Kingdom to provide accommodation and other facilities for the use of French officers, comes into force on the day after the Order is made.

Part 2 of the Order contains provisions relating to the exercise of immigration control by French officers in a Control Zone in the United Kingdom. Such officers are permitted to carry out their functions in such a Control Zone, including arresting and detaining those who are being examined for the purposes of immigration control. It is an offence to obstruct, without reasonable excuse, such an officer when carrying out his functions (articles 3 and 4). A French officer is not liable to prosecution in the United Kingdom for an offence committed in the exercise of his functions in a Control Zone (article 6) and a claim for compensation by, or against, such an officer is subject to French law (article 8). A French officer is permitted to carry a firearm while exercising his functions in a Control Zone (article 9).

Part 3 of the Order contains provisions relating to the exercise of immigration control by immigration officers in a Control Zone in France. The Immigration Act 1971, and Schedules 7, 8 and 14 to the Terrorism Act 2000 which relate to port controls, are among the enactments extended by article 11 to such a Control Zone (with the modifications set out in Schedule 2). A number of criminal offences, principally under the Immigration Act 1971, are extended by article 12 to a Control Zone in France. That article also extends the criminal law to such a Control Zone in relation to things done by an immigration officer or a constable in the exercise of his functions and in relation to the protection of such officers and their property. An immigration officer may exercise his usual powers of arrest, search and seizure in a Control Zone in France and may request the assistance of a constable when so doing (article 13 (1) and (2)). A constable may also exercise a power of arrest under the Police and Criminal Evidence Act 1984 in respect of any offence extended by the Order to such a Control Zone (article 13 (3)).

A compliance cost assessment of the effect that this instrument would have on the cost of business is available from: “UK Immigration Service—South East District, No 1 Control Building, Eastern Docks, Dover, Kent CT16 1JD”.