
STATUTORY INSTRUMENTS

2003 No. 2818

The Nationality, Immigration and Asylum
Act 2002 (Juxtaposed Controls) Order 2003

PART 2

PROVISIONS RELATING TO THE EXERCISE OF POWERS BY FRENCH
OFFICERS IN A CONTROL ZONE IN THE UNITED KINGDOM

Exercise of functions by French officers

3.—(1) An officer belonging to the French Republic shall be permitted to carry out his functions in a Control Zone in the United Kingdom in application of his powers relating to immigration control.

(2) The offence in section 26 (1)(g) of the 1971 Act of obstructing, without reasonable excuse, an immigration officer or other person lawfully acting in the execution of the 1971 Act shall apply to an officer belonging to the French Republic carrying out his functions in accordance with paragraph (1) as it applies to such an immigration officer or other person.

Powers of arrest and detention by French officers

4.—(1) An officer belonging to the French Republic may arrest and hold for questioning in a Control Zone in the United Kingdom a person who is being examined for the purposes of immigration control.

(2) The arrested person may be detained for a period of not more than 24 hours and, if there are exceptional circumstances and an immigration officer or a constable is notified of the extension, for a further such period.

Detention of arrested persons by a constable

5.—(1) Where—

- (a) an officer belonging to the French Republic has in a Control Zone in the United Kingdom arrested or detained a person in accordance with article 4 (1), and
- (b) such an officer so requests,

a constable may make arrangements for the person to be taken into temporary custody.

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

- (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, 55, 56 and 58 of the 1984 Act⁽¹⁾ and, in the case of a child or young

(1) Section 54 of the 1984 Act was amended by section 147 of the Criminal Justice Act 1988 (c. 33) and there are amendments to sections 55, 56 and 58 of the 1984 Act which are not relevant to this Order.

person, section 34(2) to (7), (8) and (9) of the Children and Young Persons Act 1933(2) apply, and

- (c) must be returned to an officer belonging to the French Republic before the end of the period referred to in article 4(2), to a place where detention can be resumed under that article.

(3) Where a person falls to be treated as mentioned in paragraph (2)(b), section 56 of the 1984 Act shall be taken to apply as if he were detained for a serious arrestable offence.

Immunity from prosecution

6. An officer belonging to the French Republic shall not be prosecuted for any offence committed in the exercise of his functions in a Control Zone in the United Kingdom.

Arrest of French officer

7.—(1) Where an officer belonging to the French Republic is arrested for an act performed in a Control Zone in the United Kingdom, the officer shall be taken to a police station designated under section 35 of the 1984 Act(3).

(2) The custody officer at the police station to which the officer is taken shall, after consultation with the competent French authorities, determine whether the act was performed by the officer whilst in the exercise of his functions, and may for the purpose of determining that question detain the officer at the police station for not longer than the permitted period.

(3) The permitted period is the period of 48 hours beginning at the time at which the officer arrives at the police station.

(4) Subject to paragraph (6), the officer shall be treated—

- (a) as not being detained at the police station for the purposes of section 37 of the 1984 Act(4), and
(b) as not being in police detention for the purposes of sections 40 to 43 of the 1984 Act(5).

(5) Where the custody officer determines that the act was performed by the officer whilst in the exercise of his functions, he shall immediately inform the competent French authorities and shall make arrangements within the permitted period for the transfer of the officer to France.

(6) In any other case—

- (a) the custody officer shall immediately inform the officer of his determination,
(b) the officer shall be treated as being in police detention for all purposes of Part IV of the 1984 Act, and
(c) that Part shall have effect in relation to him as if the relevant time mentioned in section 41(2) were the time at which he is informed of the determination.

Disapplication of law of England and Wales

8.—(1) The law of England and Wales shall not have effect in relation to any claim for compensation which may be alleged against, or by, an officer belonging to the French Republic for loss or injury in the exercise of his functions in a Control Zone in the United Kingdom and any such

(2) 23 Geo 5 c. 12. Section 34(2) to (7) and (8) and (9) of the 1933 Act were substituted by section 57 of the 1984 Act.

(3) Section 35 was amended by section 101 of, and paragraph 12 of Schedule 7 to, the Anti-terrorism, Crime and Security Act 2001 (c. 24).

(4) There are amendments to section 37 of the 1984 Act which are not relevant to this Order.

(5) Section 40 of the 1984 Act was amended by section 42 of the Police Reform Act 2002 (c. 30) and section 40A of the 1984 Act was inserted by section 73 (1) of the Criminal Justice and Police Act 2001 (c. 16). There are amendments to sections 41 to 43 of the 1984 Act which are not relevant to this Order.

claim shall be subject to the law of the French Republic as if the circumstances giving rise to the claim had occurred in France.

(2) The Data Protection Act 1998⁽⁶⁾ shall not have effect in relation to data which are processed within a Control Zone in the United Kingdom in connection with the carrying out of immigration control by an officer belonging to the French Republic.

(3) No charge shall be payable under section 40(2) of the Immigration and Asylum Act 1999⁽⁷⁾ (charge in respect of passenger without proper documents) by the owner of a ship in respect of any individual who is shown by the owner to have embarked on the ship for the voyage to the United Kingdom after having passed through a Control Zone in France.

Carrying of firearms by French officers

9. Section 54(3) of the Firearms Act 1968⁽⁸⁾ (application to Crown servants) shall have effect in relation to an officer belonging to the French Republic exercising his functions within a Control Zone in the United Kingdom as if the reference to a member of a police force included a reference to such an officer.

Provision of facilities for French officers

10. The Secretary of State may by written notice require any person concerned with the management of a port in the United Kingdom which is designated in Schedule 1 to this Order to provide free of charge such accommodation, installations and equipment as may be necessary to enable officers belonging to the French Republic to perform their functions in a Control Zone in the United Kingdom.

(6) 1998 c. 29.

(7) 1999 c. 33. Section 40 was substituted by paragraph 13 of Schedule 8 to the Nationality, Immigration and Asylum Act 2002 (c. 41).

(8) 1968 c. 27. Section 54 (3) was substituted by section 42 of the Police and Magistrates' Court Act 1994 (c. 29).