

EXPLANATORY MEMORANDUM TO

THE CHANNEL TUNNEL (MISCELLANEOUS PROVISIONS) (AMENDMENT) ORDER

2004 No.2589

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument will amend the provisions of the Channel Tunnel (Miscellaneous Provisions) Order 1994 to give effect to the terms of an Administrative Arrangement between France, Belgium and the United Kingdom, signed on 1 October 2004, concerning the exercise of immigration controls at the Gare du Midi in Brussels by United Kingdom officials and by Belgian officials, should they wish to do so, at Waterloo International Station in London and Ashford International on all services.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Channel Tunnel (Miscellaneous Provisions) Order 1994 (made under the Channel Tunnel Act 1987) gave effect to the Tripartite Agreement between the United Kingdom, France and Belgium signed on 15 December 1993. This agreement concerned the exercise of frontier controls by British and Belgian officials, on non-stop trains travelling between Waterloo International Station and Brussels Gare du Midi. Under this agreement UK controls could be carried out in a Control Zone in Brussels and Belgian controls in a control Zone at Waterloo. We have now entered into an Administrative Arrangement that will extend these controls to all services.

4.2 The Tripartite Agreement is one of a series of agreements linked to the Channel Tunnel aimed at moving UK frontier controls abroad so that they are carried out before the point of departure from a given state. A similar agreement has recently been agreed and implemented with the French government to juxtapose immigration control at certain sea ports on the Channel.

5. Extent

5.1 This instrument applies to all the United Kingdom.

6. European Convention on Human Rights

6.1 Not applicable

7. Policy Background

7.1 The aim of establishing juxtaposed controls on key ferry services and rail services to the UK from France and Belgium is to tackle illegal immigration more effectively. By checking the documentation of passengers prior to departure, similar controls on rail and ferry services have

significantly reduced the number of inadequately documented passengers arriving in the UK. In addition, anyone trying to claim asylum at UK juxtaposed controls abroad will be directed to the authorities of that other member state country. This encourages asylum applicants to claim international protection at the earliest opportunity.

7.2 In order to make juxtaposed controls in Brussels fully effective, we need to update the Tripartite Agreement which currently only provides for controls on non-stop train services between Brussels and the UK. At the time the Agreement was signed, the only services between London and Brussels were non-stop.. However, the vast majority of services make a commercial stop at Lille in France and we need to extend our domestic legislation to permit checks by UK officials on these services as well. To that end, on 1 October 2004 we signed the Administrative Arrangement with Belgium and France allowing for immigration checks to be extended to such services. This Order gives effect to that Arrangement, giving UK Immigration Officers the ability to exercise their full powers within a dedicated Control Zone at Brussels and for Belgian Officers to operate similar controls at Waterloo or Ashford International.

7.3 The numbers of inadequately documented passengers currently arriving from Brussels, whilst not excessive, are significant, and there is the possibility of the station being targeted more now that the effects of the introduction of juxtaposed controls at French seaports, and various deployments of UK hi-tech personnel detection technology in Northern Europe, are starting to be felt.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument because there will be no impact on the private or voluntary sector as a result of extending the juxtaposed controls. Since mid-2001, the French Police aux Frontières (PAF) have been operating the outbound control as a frontier control for entry to the Schengen area. There will be no additional costs arising from signature of the Administrative Arrangement

8.2 The impact on the public sector will be as follows. The Home Office, in accordance with the Tripartite Agreement, will meet the cost of control accommodation in Brussels. However, with these controls established in Brussels and mirrored at the other Eurostar embarkation points in Paris, Lille and Calais Fréthun, the Home Office will be in a position to completely remove the existing controls at Waterloo and Ashford and vacate office premises. Whilst some is statutorily provided by the port operator there is much of which is currently leased from Eurostar.

9. Contact

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