

**EXPLANATORY MEMORANDUM TO  
THE CHANNEL TUNNEL (INTERNATIONAL ARRANGEMENTS)  
(AMENDMENT) ORDER 2014**

**2014 No. 1814**

**1. Introduction**

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

**2. Purpose of the instrument**

2.1 This Order modifies the application of provisions in the Immigration Act 1971 to travel on trains entering and leaving the UK via the Channel Tunnel. In particular, it modifies the application of provisions regarding (i) the Secretary of State's powers to make provision for requiring landing and embarkation cards to be completed by passengers, (ii) the Secretary of State's power to give directions requiring arrangements to be made by carriers and port operators for designated persons to exercise specified functions and (iii) the criminal offence committed by carriers and port operators who fail to comply with such a direction.

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

3.1 None.

**4. Legislative Context**

4.1 Section 11 of the Channel Tunnel Act 1987 provides that the appropriate Minister may make such provision by order as appears to him to be necessary or expedient (a) for the purpose of applying any provisions of the law of England (with or without modifications), or excluding or modifying any of those provisions, in relation to things done or omitted or other matters arising anywhere within the tunnel system (whether in England or in France) and (b) with respect to controls in relation to persons or goods on trains engaged on international services outside the tunnel system (whether in the United Kingdom or elsewhere).

4.2 The Channel Tunnel (International Arrangements) Order 1993 (S.I. 1993/1813) makes provision modifying the application of immigration control enactments, including the Immigration Act 1971, in respect of trains travelling through the Channel Tunnel.

4.3 Section 67 and Schedule 8 to the Immigration Act 2014 made various amendments to section 27 and Schedule 2 to the Immigration Act 1971 which will come into force on 28 July 2014. The Order is being made to modify the

application of the amended provisions in the 1971 Act in their application to travel on trains entering and leaving the UK through the Channel Tunnel.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- ***What is being done and why***

7.1 The Coalition Government has committed to re-introducing exit checks by 2015. Where an exit check requires the examination of a passenger at the border prior to embarkation, the government wishes to minimise the impact on port operations as far as possible in order to minimise disruption to legitimate passengers travelling out of the UK through airports, seaports and international rail terminals.

7.2 To support the implementation of exit checks, the Immigration Act 2014 made amendments to sections 27 and Schedule 2 to the Immigration Act 1971 (i) to allow those already involved in outbound passenger processes, such as carrier and port operator staff, to be trained and designated to perform the basic checks required to contribute to an efficient and effective exit checks capability, (ii) to give powers to the Secretary of State to give directions requiring carriers and port operators to make arrangements for designated persons to exercise specified functions, such as the examination of embarking passengers, (iii) to amend the offence at section 27 of the Act to provide that carriers and port operators who fail to comply with such a direction commit an offence, and (iv) amending the Secretary of State's powers to make provision for requiring landing and embarkation cards to be completed by passengers.

7.3 The Order to which this Explanatory Memorandum relates, amends secondary legislation made under section 11 of the Channel Tunnel Act 1987. That secondary legislation applies certain immigration legislation with modification to Channel Tunnel trains. This Order ensures that the provisions relating to embarkation checks which have been inserted into or amended in the Immigration Act 1971 by the Immigration Act 2014 also extend to Channel Tunnel trains to allow the new powers to be applied to international rail travel.

- ***Consolidation***

7.4 On balance the Department does not consider consolidation to be appropriate on this occasion but will consider consolidation in the event that amendments are required to this instrument in the future.

**8. Consultation outcome**

8.1 The Order is not subject to statutory consultation. No public consultation was undertaken.

**9. Guidance**

9.1 Guidance will be developed in line with the embarkation checks provisions in the Immigration Act 2014.

**10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument.

10.2 An Impact Assessment on the embarkation checks provisions in the Immigration Act 2014 is in development.

**11. Regulating small business**

11.1 The legislation does not apply to small business.

**12. Monitoring & review**

12.1 The operation of controls at the Channel Tunnel is regularly inspected by the Independent Chief Inspector of Borders and Immigration.

**13. Contact**

Sally Palmer at the Home Office (Tel: 020 7035 1963 or email: [sally.palmer@homeoffice.gsi.gov.uk](mailto:sally.palmer@homeoffice.gsi.gov.uk)) can answer any queries regarding the instrument.