

2014 No. 409

IMMIGRATION

**The Channel Tunnel (Miscellaneous Provisions) (Amendment)
Order 2014**

Made - - - - - *25th February 2014*

Laid before Parliament *27th February 2014*

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by section 11 of the Channel Tunnel Act 1987(a).

Citation and commencement

1.—(1) This Order may be cited as the Channel Tunnel (Miscellaneous Provisions) (Amendment) Order 2014.

(2) It shall come into force on the date on which the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Belgium, Concerning Immigration Controls on Rail Traffic between Belgium and the United Kingdom Using the Channel Fixed Link enters into force(b).

Amendments to the Channel Tunnel (Miscellaneous Provisions) Order 1994

2. The Channel Tunnel (Miscellaneous Provisions) Order 1994(c) is amended as follows.

3.—(1) In article 2(3)(c) after “travelling”, insert “between the United Kingdom and Belgium”.

(2) After article 2(3)(c), insert—

“(d) in Part IV of Schedule 2 (being Articles or parts of Articles of the Protocol attached to and forming part of the Agreement as applied by the Bilateral Agreement to immigration controls on passengers travelling on international trains between Belgium and the United Kingdom making a commercial stop),”.

(3) In article 3(3)—

(a) for “and to Article 17 of the Part III provisions” substitute “, Article 17 of the Part III provisions and Article 17 of the Part IV provisions”;

(b) for “and under that Article as applied by Article 3 of the Administrative Arrangement” substitute “, under that Article as applied by Article 3 of the Administrative Arrangement and under that Article as applied by Article 4 of the Bilateral Agreement”.

(4) In Schedule 1—

(a) 1987 c.53.

(b) That date will be notified in the London, Edinburgh and Glasgow Gazettes.

(c) S.I. 1994/1405, as amended by S.I. 2004/2589, 2007/2908, 2007/3579 and 2011/1043.

- (a) in the meaning of the expression “Administrative Arrangement” after “2004”, insert “, as amended by the Amending Administrative Arrangement”;
- (b) after the definition of “Administrative Arrangement”, insert—

““Amending Administrative Arrangement” The Amending Administrative Arrangement signed on 4th and 5th October 2007 between the Secretary of State for the Home Department of the United Kingdom of Great Britain and Northern Ireland, the Vice Prime Minister, Minister for Home Affairs of the Kingdom of Belgium, and the Minister of Immigration, Integration, National Identity and Co-development of the French Republic making Amendments to the Administrative Arrangement signed at the Hague on 1st October 2004.

“Bilateral Agreement” The Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Belgium, concerning Immigration Controls on Rail Traffic between Belgium and the United Kingdom using the Channel Fixed Link signed at London on 3rd December 2013 and at Brussels on 18th December 2013.”;

- (c) after the definition of “The Part III provisions”, insert—

““The Part IV provisions” The Provisions set out in Part IV of Schedule 2.”.

(5) In Part III of Schedule 2—

- (a) in the heading, after “Travelling”, insert “between the United Kingdom and Belgium”;
- (b) for Article 1, substitute—

“This Protocol shall apply to rail traffic between Ashford International, Ebbsfleet International or St Pancras International train stations in the United Kingdom and Belgium, travelling via the Fixed Link and making a commercial stop in French territory.”;
- (c) in Article 5, for “State of arrival”, in each place where it appears, substitute “other States”;
- (d) in Article 6—
 - (i) for “the state of arrival refuses” substitute “officers of the other States refuse”;
 - (ii) for “controls of the State of arrival” substitute “controls of the other States”;
- (e) in Article 8—
 - (i) for “State of arrival” substitute “other States”;
 - (ii) for “that State” substitute “those States”.

(6) In Schedule 2 at the end, insert—

“Part IV

Articles or Parts of Articles of the Protocol Attached to and Forming Part of the Agreement, as Applied by the Bilateral Agreement to Immigration Controls upon Passengers Travelling between Belgium and the United Kingdom on International Trains Making a Commercial Stop

Article 1

This Protocol shall apply to rail traffic between the Brussels-South train station in Belgium and the United Kingdom, travelling via the Fixed Link and making a commercial stop in French territory.

Article 2

1. The laws and regulations relating to immigration controls of one State shall be applicable in the control zones situated in the other State and shall be put into effect by the officers of that State in the same way as in their own territory.

2. The officers of each State shall be subject to the legislation of that State on the protection of individuals with regard to automated processing of personal data when using their automated data files and equipment in the control zone situated in either of the other State.

Article 3

1. The officers of the other State shall, in exercise of their national powers, be permitted in the control zone situated in the host state to detain or arrest persons in accordance with the laws relating to immigration control of their own State. These officers shall also be permitted to conduct such persons to the territory of their own State.

2. However, no person may be held for more than 24 hours in the areas reserved for immigration controls in the host State. Any such detention shall be subject to the requirements and procedures laid down by the legislation of the State of the officers who have made the detention or arrest.

Article 4

Breaches of the laws and regulations relating to immigration controls of the other State which are detected in the control zone situated in the host State shall be subject to the laws and regulations of the other State, as if the breaches had occurred in the territory of the latter.

Article 5

1. The immigration controls of the State of departure shall normally be effected before those of the State of arrival.

2. The officers of the State of arrival are not authorised to begin to carry out such controls before the end of the controls of the State of departure. Any form of relinquishment of such controls shall be considered as a control.

3. The officers of the State of departure may no longer carry out their immigration controls when the officers of the State of arrival have begun their own operations, except with the consent of the competent officers of the State of arrival.

4. If exceptionally, in the course of the immigration controls, the sequence of operations provided for in paragraph (1) of this Article is modified, the officers of the State of arrival

may not proceed to detentions, arrests or seizures until the immigration controls of the State of departure are completed. In such a case, these officers shall escort any persons and goods for which the immigration controls of the State of departure are not yet completed, to the officers of that State. If these latter then wish to proceed to detentions, arrests or seizures, they shall have priority.

Article 6

If the State of arrival refuses admission to persons or goods or if the persons refuse to submit to the immigration controls of the State of arrival, or send or take back any goods which are accompanying them, the authorities of the State of departure may not refuse to accept back such persons or goods. However, the authorities of the State of departure may take any measures to deal with them in accordance with the law applicable in that State and in a way which does not impose obligations either on the State of transit or on the State of arrival.

Article 7

In an emergency, the local representatives of the authorities concerned may by mutual agreement provisionally bring into effect alterations to the delimitation of the control zones which may prove necessary. Any arrangements so reached shall come into effect immediately.

Article 8

Immigration controls on persons for the purpose of safeguarding public health shall be carried out in the control zones situated in the host State by the competent authorities of the State of arrival in conformity with the regulations applicable in that State.

Article 12

Officers of the other State may wear their national uniform or visible distinctive insignia in the host State.

Article 13

1. The authorities of the host State shall grant the same protection and assistance to officers of the other State, in the exercise of their functions, as they grant to their own officers.

2. The provisions of the criminal law in force in the host State for the protection of officers in the exercise of their functions shall be equally applicable to the punishment of offences committed against officers of the other State in the exercise of their functions.

Article 14

1. Without prejudice to the application of the provisions of Article 23 of the Agreement, claims for compensation for loss, injury or damage caused by or to officers of the other State in the exercise of their functions in the host State shall be subject to the law and jurisdiction of the State to which those officers belong as if the circumstance giving rise to the claim had occurred there.

2. Officers of the other State may not be prosecuted by the authorities of the host State for any acts performed in the control zone whilst in the exercise of their functions. In such a case, they shall come under the jurisdiction of their own State as if the act had been committed there.

3. The judicial authorities or police of the host State who take steps to record the complaint and assemble the facts relating thereto shall communicate all the particulars and evidence thereof to the competent authorities of the State to which the officer belongs for the purposes of a possible prosecution according to the laws in force in that State.

Article 17

The authorities of the Kingdom of Belgium and of the United Kingdom shall use their best endeavours to ensure that the authorities of the other party are able to make use in the host State of the accommodation, installations and equipment necessary for the performance of their functions.

Article 18

1. The officers of the other State are empowered to keep order within the accommodation appointed for their exclusive use in the host State.

2. The officers of the host State shall not have access to such accommodation except at the request of the officers of the State concerned or in accordance with the laws of the host State applicable to entry into and searches of private premises.

Article 19

All goods which are necessary to enable the officers of the other State to carry out their functions in the host State shall be exempt from all taxes and duty on entry and exit.

Article 20

The officers of the other State whilst exercising their functions in the host State shall be authorised to communicate with their national authorities.”.

Home Office
25th February 2014

James Brokenshire
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Channel Tunnel (Miscellaneous Provisions) Order 1994 (S.I. 1994/1405) in order to make the changes set out below.

This Order gives effect to the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Belgium, concerning Immigration Controls on Rail Traffic between Belgium and the United Kingdom using the Channel Fixed Link, signed at London on 3rd December 2013 and at Brussels on 18th December 2013. This concerns immigration controls on passengers travelling between Belgium and the United Kingdom on trains originating in Belgium and making an international stop in France. This Agreement replaces the Administrative Arrangement between the Secretary of State for the Home Department of the United Kingdom of Great Britain and Northern Ireland, the Vice Prime Minister, Minister for Home Affairs of the Kingdom of Belgium, and the Minister of the Interior, of Internal Security and Local Freedoms of the French Republic signed at The Hague on 1st October 2004 in respect of immigration controls on these journeys.

This Order also makes amendments to preserve the effect of the Administrative Arrangement as it concerns immigration controls by French and Belgian officers on passengers travelling between

the United Kingdom and Belgium on trains originating in the United Kingdom and making an international stop in France.

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