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STATUTORY INSTRUMENTS

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**1994 No. 570**

**CHANNEL TUNNEL**

**The Channel Tunnel (Security) Order 1994**

*Made* - - - - *4th March 1994*  
*Coming into force* - - *in accordance with*  
*article 1*

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:  
Now, therefore, the Secretary of State for Transport, in exercise of the powers conferred by section 11 of the Channel Tunnel Act 1987(1), and all other powers enabling him in that behalf, hereby makes the following Order:

**PART I**  
**PRELIMINARY**

**Citation and commencement**

1. This Order may be cited as the Channel Tunnel (Security) Order 1994 and shall come into force on the day after the day on which it is made.

**Interpretation**

- 2.—(1) In this Order, except where the context otherwise requires—
- “ammunition” has the same meaning as in the Firearms Act 1968(2),
  - “article” includes any substance, whether natural or artificial, in solid or liquid form or in the form of a gas or vapour,
  - “authorised person” means a person authorised in writing by the Secretary of State for the purposes of Part III of this Order,
  - “Channel Tunnel freight business” means the business of handling goods for delivery (by the person carrying on the business or by another person) for carriage by a Channel Tunnel train, in the case of a shuttle train, in a vehicle on that train, and “Channel Tunnel freight” shall be constructed accordingly;

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(1) 1987 c. 53; see the definition of “the appropriate Minister” in section 13(1).  
(2) 1968 c. 57.

“Channel Tunnel freight forwarder” means a person whose business includes Channel Tunnel freight business,

“Channel Tunnel train” means a train or any part of a train (including a shuttle train) which has been assigned for use (whether in the United Kingdom or elsewhere) for conveying passengers or goods through the tunnel system,

“constable” includes any person having the powers and privileges of a constable,

“employee”, in relation to a body corporate includes officer,

“enforcement notice” has the meaning given by article 21(1) of this Order,

“explosive” means any article manufactured for the purpose of producing a practical effect by explosion, or intended for that purpose by a person having the article with him,

“firearm” has the same meaning as in the Firearms Act 1968,

“goods” means goods or burden of any description and includes baggage, stores and mail,

“measures” (without prejudice to the generality of that expression) includes the construction, execution, alteration, demolition or removal of any building or other works (whether on dry land or on the seabed or other land covered by water), and also includes the institution or modification, and the supervision and enforcement, of any practice or procedure,

“owner” includes a lessee,

“property” includes any land, building or works, any train or other vehicle and any goods or other article of any description,

“restricted zone”, in relation to the tunnel system or any land, building or works, means any part of the tunnel system or the land, building or works designated under article 12 of this Order or, where the whole of the tunnel system or land, building or works is so designated, the tunnel system or the land, building or works,

“stores” means any goods intended for sale or use on a train, within the tunnel system or within a restricted zone, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting,

“train manager” means in relation to a Channel Tunnel train, the person designated as train manager by the person operating the service on which the train is engaged or, in the absence of such designation, the driver of the train,

“United Kingdom national” means an individual who is—

- (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981(3) is a British subject, or (c) a British protected person (within the meaning of that Act),

“unlawfully”, in relation to the commission of an act, means so that the commission of the act is (apart from this Order) an offence under the law of England and Wales, Scotland or Northern Ireland or would be if committed there, and

references to the tunnel system include references to the tunnel system or any part of it (whether in England or France), except the inland clearance depot at Ashford in Kent, for the accommodation, in connection with the application to them of customs and other controls, of freight vehicles which have been or are to be conveyed through the tunnels on shuttle services.

(2) In Part III of this Order “act of violence” shall be construed in accordance with article 10(2).

(3) Any power to give a direction under any provision of this Order includes power to revoke or vary any such direction by a further direction.

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(3) 1981 c. 61.

(4) For the purposes of this Order a person is permitted to have access to a restricted zone if he is permitted to enter that zone or if arrangements exist for permitting any of his employees or agents to enter that zone.

#### **Extraterritorial application and extent**

**3.—**(1) This Order applies outside the United Kingdom only where jurisdiction is conferred by article 30 or 38 of the international articles.

(2) This Order extends to Northern Ireland.

(3) In this article “the international articles” has the same meaning as in the Channel Tunnel (International Arrangements) Order 1993<sup>(4)</sup> and in articles 30 and 38 of the international articles the expression “the Fixed Link” has for the purposes of this Order the meaning given in article 2(3) of that Order.

## **PART II**

### **OFFENCES AGAINST THE SAFETY OF CHANNEL TUNNEL TRAINS AND THE TUNNEL SYSTEM**

#### **Hijacking of Channel Tunnel trains**

**4.—**(2) A person who unlawfully, by the use of force or by threats of any kind, seizes a Channel Tunnel train or exercises control of it, commits the offence of hijacking a Channel Tunnel train.

(2) A person guilty of the offence of hijacking a Channel Tunnel train is liable on conviction on indictment to imprisonment for life.

#### **Seizing or exercising control of the tunnel system**

**5.—**(2) A person who unlawfully, by the use of force or by threats of any kind, seizes the tunnel system or exercises control of it, commits an offence.

(2) A person guilty of an offence under this article is liable on conviction on indictment to imprisonment for life.

#### **Destroying a Channel Tunnel train or the tunnel system or endangering their safety**

**6.—**(2) A person commits an offence if he unlawfully and intentionally—

- (a) destroys a Channel Tunnel train or the tunnel system, or destroys any goods on the train or within the tunnel system so as to endanger or be likely to endanger, the safe operation of the train, or as the case may be, the safety of the tunnel system;
- (b) damages a Channel Tunnel train or any goods on the train or the tunnel system or any goods within the system so as to endanger, or to be likely to endanger, the safe operation of the train, or as the case may be, the safety of the tunnel system; or
- (c) commits on board a Channel Tunnel train or within the tunnel system an act of violence which is likely to endanger the safe operation of the train, or as the case may be, the safety of the tunnel system.

(2) A person commits an offence if he unlawfully and intentionally places, or causes to be placed, on a Channel Tunnel train or in the tunnel system any device or substance which—

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(4) [S.I. 1993 No. 1813](#).

- (a) in the case of a Channel Tunnel train is likely to destroy the train, or is likely so to damage it or any goods on it as to endanger its safe operation, or
  - (b) in the case of the tunnel system, is likely to destroy the tunnel system or so to damage it as to endanger its safety.
- (3) Nothing in paragraph (2) above shall be construed as limiting the circumstances in which the commission of any act—
- (a) may constitute an offence under paragraph (1) above, or
  - (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting, or being art and part in, the commission of such an offence.
- (4) A person guilty of an offence under this article is liable on conviction on indictment to imprisonment for life.
- (5) In this article “act of violence” means an act which constitutes—
- (a) the offence of murder, attempted murder, manslaughter, culpable homicide or assault,
  - (b) an offence under section 18, 20, 21, 22, 23, 24, 28 or 29 of the Offences against the Person Act 1861<sup>(5)</sup> or
  - (c) an offence under section 2 of the Explosive Substances Act 1883<sup>(6)</sup>, or
- which if committed in England and Wales, Scotland or Northern Ireland would constitute such an offence.

**Other acts endangering or likely to endanger the safe operation of a Channel Tunnel train or the safety of the tunnel system**

- 7.—(2) It is an offence for any person unlawfully and intentionally—
- (a) to destroy or damage any property to which this paragraph applies, or
  - (b) to interfere with the operation of any such property,
- where the destruction, damage or interference is likely to endanger the safe operation of any Channel Tunnel train or the safety of the tunnel system.
- (2) Paragraph (1) above applies to any property used in connection with the operation of any Channel Tunnel train or the tunnel system, including any land, building or works, train, apparatus or equipment so used, whether it is on board a Channel Tunnel train or, as the case may be, within the tunnel system, or elsewhere.
- (3) It is an offence for any person intentionally to communicate any information which he knows to be false in a material particular, where the communication of the information endangers the safe operation of any Channel Tunnel train or the safety of the tunnel system.
- (4) It is a defence for a person charged with an offence under paragraph (3) above to prove that when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that he communicated the information in good faith in performance of those duties.
- (5) A person guilty of an offence under this article is liable on conviction on indictment to imprisonment for life.

**Offences involving threats**

- 8.—(2) A person commits an offence if—

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(5) 1861 c. 100.  
(6) 1883 c. 3.

- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any Channel Tunnel train or the tunnel system an act which is an offence by virtue of article 6(1) of this Order, and
  - (b) the making of that threat is likely to endanger the safe operation of the train or, as the case may be, the safety of the tunnel system.
- (2) A person commits an offence if—
- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do an act which is an offence by virtue of article 7(1) of this Order, and
  - (b) the making of the threat is likely to endanger the safe operation of any Channel Tunnel train or the safety of the tunnel system.
- (3) A person guilty of an offence under this article is liable on conviction on indictment to imprisonment for life.

### **Prosecution of offences and proceedings**

**9.—**(2) Proceedings for an offence under any provision of this Part of this Order shall not be instituted—

- (a) in England and Wales, except by, or with the consent of, the Attorney General, and
- (b) in Northern Ireland, except by, or with the consent of, the Attorney General for Northern Ireland.

(2) As respects Scotland, for the purposes of conferring on the sheriff jurisdiction to entertain proceedings for an offence under or by virtue of this Part of this Order, any such offence shall, without prejudice to any jurisdiction exercisable apart from this paragraph, be deemed to have been committed in any place in Scotland where the offender may for the time being be.

## **PART III**

### **PROTECTION OF CHANNEL TUNNEL TRAINS AND THE TUNNEL SYSTEM AGAINST ACTS OF VIOLENCE**

#### ***General Purposes***

#### **Purposes to which Part III applies**

**10.—**(2) The purposes to which this Part of this Order applies are the protection against acts of violence—

- (a) of Channel Tunnel trains, and of persons or property on board such trains,
- (b) of the tunnel system, of such persons as are at any time present in any part of the tunnel system and of such property as forms part of the tunnel system or is at any time (whether permanently or temporarily) in any part of the tunnel system,
- (c) of any property used in connection with the operation of any Channel Tunnel train or the tunnel system including any land, building or works, train or other vehicle, apparatus or equipment so used whether it is on board a Channel Tunnel train or elsewhere, and
- (d) of any goods to be carried on a Channel Tunnel train or any property used in connection with such goods, including any land, building or works, train or other vehicle, apparatus or equipment so used, whether it is on board a Channel Tunnel train or elsewhere.

(2) In this Part of this Order “act of violence” means any act (whether actual or potential) which either—

- (a) being an act done in Great Britain, constitutes, or
- (b) if done in Great Britain, would constitute,

the offence of murder, attempted murder, manslaughter, culpable homicide or assault, or an offence under section 18, 20, 21, 22, 23, 24, 28 or 29 of the Offences against the Person Act 1861, under section 2 of the Explosive Substances Act 1883 or under section 1 of the Criminal Damage Act 1971(7) or, in Scotland, the offence of malicious mischief.

### ***Powers of the Secretary of State***

#### **Powers of the Secretary of State to require information**

**11.**—(1) The Secretary of State may, by notice in writing served on any of the following persons—

- (a) the owner, operator or train manager of any Channel Tunnel train,
- (b) the Concessionaires,
- (c) any person who carries on operations in the tunnel system,
- (d) any person permitted to have access to a restricted zone for the purposes of the activities of any business carried on by him, and
- (e) the owner, occupier or manager of any property used in connection with the operation of any Channel Tunnel train or the tunnel system including any land, building or works, train or other vehicle, apparatus or equipment so used whether it is on board a Channel Tunnel train or, as the case may be, within the tunnel system or elsewhere,

require that person to provide the Secretary of State with such information specified in the notice as the Secretary of State may require in connection with the exercise by the Secretary of State of his functions under this Part of this Order.

(2) A notice under paragraph (1) above shall specify a date (not being earlier than seven days from the date on which the notice is served) before which the information required by the notice in accordance with paragraph (1) above is to be furnished to the Secretary of State.

(3) Any such notice may also require the person on whom it is served, after he has furnished to the Secretary of State the information required by the notice in accordance with paragraph (1) above, to inform the Secretary of State if at any time the information previously furnished to the Secretary of State (including any information furnished in pursuance of a requirement imposed by virtue of this paragraph) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes to which this Part of this Order applies or the alteration or discontinuance of any measures already being taken).

(4) In so far as such a notice requires further information to be furnished to the Secretary of State in accordance with paragraph (3) above, it shall require that information to be furnished to him before the end of such period (not being less than seven days from the date on which the change of circumstances occurs) as is specified in the notice for the purposes of this paragraph.

(5) A notice may be served under this article on a person appearing to the Secretary of State to be about to become such a person as is mentioned in paragraph (1) above, but a notice served on a person by virtue of this paragraph shall not take effect until he becomes a person so mentioned and, in relation to the notice so served, the preceding provisions of this article shall apply with the necessary modifications.

- (6) Any person who—

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(7) 1971 c. 48.

- (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this article, or
  - (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,
- commits an offence.
- (7) A person guilty of an offence under paragraph (6) above is liable—
    - (a) on summary conviction, to a fine not exceeding the statutory maximum;
    - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
  - (8) A notice served on a person under paragraph (1) above may at any time—
    - (a) be revoked by a notice in writing served on him by the Secretary of State, or
    - (b) be varied by a further notice under paragraph (1) above.

### **Designation of restricted zones**

**12.**—(1) The Concessionaires may, and shall if so requested in writing by the Secretary of State, apply to the Secretary of State for the designation of the whole or any part of the tunnel system as a restricted zone for the purposes of this Part of this Order.

(2) The owner, occupier or manager of any land, building or works used in connection with the operation of any Channel Tunnel train or the tunnel system may, and shall if so requested in writing by the Secretary of State, apply to the Secretary of State for the designation of the whole or any part of the land, building or works as a restricted zone for the purposes of this Part of this Order.

(3) An application under paragraph (1) or (2) above shall be in such form, and accompanied by such plans, as the Secretary of State may require.

(4) If the Secretary of State approves an application under paragraph

(1) or (2) above with or without modifications, he shall designate the restricted zone accordingly.

(5) Before approving an application with modifications, the Secretary of State shall consult the Concessionaires, or the owner, occupier or manager of the land, building or works, as the case may be.

(6) If the Secretary of State requests the Concessionaires or, as the case may be, the owner, occupier or manager of any land, building or works referred to in paragraph (2) above in writing, to make an application under paragraph (1) or, as the case may be, (2) above within a specified period, but the Concessionaires fail or, as the case may be, the owner, occupier or manager of the land, building or works fails, to do so within that period, the Secretary of State may designate the whole or any part of the tunnel system or, as the case may be, the land, building or works as a restricted zone.

(7) The whole or any part of the tunnel system or, as the case may be, any land, building or works may be designated as a restricted zone, or part of a restricted zone, for specified days or times of day only.

(8) The Secretary of State shall give notice to the Concessionaires or, as the case may be, the owner, occupier or manager of the land, building or works of any designation under this article and the designation of the restricted zone shall take effect on the giving of the notice.

(9) Where the whole or any part of the tunnel system or, as the case may be, any land, building or works referred to in paragraph (2) has been designated under this article as a restricted zone—

- (a) paragraphs (1) to (8) above also have effect in relation to any variation of the designation, and
- (b) the designation may at any time be revoked by the Secretary of State.

### **Power to impose restrictions in relation to Channel Tunnel trains**

13.—(1) For purposes to which this Part of this Order applies, the Secretary of State may give a direction in writing to the Concessionaires or to the owner, operator or train manager of any Channel Tunnel train requiring that person—

- (a) not to cause or permit persons or property to go or be taken on board any Channel Tunnel train to which the direction relates, or to come or be brought into proximity to any such Channel Tunnel train, unless such searches of those persons or that property as are specified in the direction have been carried out by persons of a description specified in the direction or by constables, or
- (b) not to cause or permit any such Channel Tunnel train to be put into service or moved unless such searches of the train as are specified in the direction have been carried out by persons of a description so specified or by constables.

(2) For purposes to which this Part of this Order applies, the Secretary of State may give a direction in writing to the Concessionaires or the owner, operator or train manager of any Channel Tunnel train requiring them or him not to cause or permit the train to be put into service or moved unless such modifications or alterations of the train, or of apparatus or equipment installed in or carried on board the train, as are specified in the direction have first been carried out, or such additional apparatus or equipment as is so specified is first installed in or carried on board the train.

(3) In giving any directions under paragraph (2) above, the Secretary of State shall allow, and shall specify in the direction, such period as appears to him to be reasonably required for carrying out the modifications or alterations or installing or obtaining the additional apparatus or equipment in question; and the direction shall not take effect before the end of the period so specified.

(4) Subject to the following provisions of this Part of this Order, a direction given to an owner, operator or train manager of a train under paragraph (1) or (2) above may be given so as to relate either to all Channel Tunnel trains of which at the time when the direction is given or at any subsequent time he is the owner, operator or train manager or only to one or more such trains specified in the direction; and a direction given to the Concessionaires under paragraph (1) or (2) above may be given so as to relate either to all Channel Tunnel trains which at the time when the direction is given or at any subsequent time are in any part of the tunnel system, or to a class of such trains specified in the direction.

(5) Subject to the following provisions of this Part of this Order, a direction under paragraph (1) above may be given so as to relate—

- (a) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction, and
- (b) either to property of every description or only to particular property, or property of one or more descriptions, so specified.

(6) Subject to the following provisions of this Part of this Order, any direction given under this article to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

(7) A direction may be given under this article to a person appearing to the Secretary of State to be about to become such a person as is mentioned in paragraph (1) or (2) above, but a direction given to a person by virtue of this paragraph shall not take effect until he becomes a person so mentioned and, in relation to a direction so given, the preceding provisions of this article shall apply with the necessary modifications.

(8) Any person who, without reasonable excuse, fails to comply with a direction given to him under this article is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;



(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(9) Where a person is convicted of an offence under paragraph (8) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one tenth of level 5 on the standard scale for each day on which the failure continues.

### **Power to require the Concessionaires to promote searches in the tunnel system**

**14.**—(1) For the purposes to which this Part of this Order applies, the Secretary of State may give a direction in writing to the Concessionaires requiring them to use their best endeavours to secure that such searches to which this article applies as are specified in the direction are carried out by persons of a description specified in the direction or by constables.

(2) The searches to which this article applies, in relation to the tunnel system, are searches—

- (a) of the tunnel system or any part of it,
- (b) of any Channel Tunnel train which at the time when the direction is given or at any subsequent time is in the tunnel system, and
- (c) of persons and property (other than Channel Tunnel trains) which may be in the tunnel system.

(3) Where a direction under this article to the Concessionaires is for the time being in force, then, subject to paragraphs (4) and (5) below, if a person of a description specified in the direction in accordance with this article or a constable has reasonable cause to suspect that an article to which this paragraph applies is in, or may be brought into, any part of the tunnel system, he may, by virtue of this paragraph and without a warrant, search any part of the tunnel system or any Channel Tunnel train, vehicle, goods or other moveable property of any description which, or any person who, is for the time being in any part of the tunnel system, and for that purpose—

- (a) may enter any building or works in the tunnel system, or enter upon any land in the tunnel system, if need be by force,
- (b) may go on board any such Channel Tunnel train and inspect the train,
- (c) may stop any such Channel Tunnel train and, for so long as may be necessary for that purpose, prevent it from being moved, and
- (d) may stop any such vehicle, goods, property or person and detain it or him for so long as may be necessary for that purpose.

(4) In the case of premises used only as a private dwelling any power to search or enter conferred by paragraph (3) above may not be exercised except—

- (a) under the authority of a warrant issued by a justice of the peace; and
- (b) by a constable who is a member of a body of constables maintained in England and Wales by a police authority or an authority which has entered into an agreement with the Police Complaints Authority under section 96(1) of the Police and Criminal Evidence Act 1984(8).

(5) If, on an application made by a constable, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an article to which paragraph (3) above applies is in any premises used only as a private dwelling, he may issue a warrant authorising a constable to enter and search the premises.

(6) Paragraph (3) above applies to the following articles—

- (a) any firearm or ammunition or any article having the appearance of being a firearm, whether capable of being discharged or not,
- (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive, and
- (c) any article (not falling within either of the preceding sub-paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property, or intended by the person having it with him for such use, whether by him or by any other person.

(7) Where an article to which paragraph (3) above applies is found during a search under this article, it shall be detained or otherwise dealt with in accordance with the requirements specified by the Secretary of State in the direction given under this article.

(8) Any person who—

- (a) without reasonable excuse, fails to comply with a direction given to him under this article or with any requirement specified in the direction referred to in paragraph (7) above, or
- (b) intentionally obstructs a person acting in the exercise of a power conferred on him by paragraph (3) above,

commits an offence.

(9) A person guilty of an offence under paragraph (8) above is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(10) Where a person is convicted of an offence under paragraph (8)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one tenth of level 5 on the standard scale for each day on which the failure continues.

(11) Paragraph (3) above has effect without prejudice to the operation in relation to any offence under this Order in England and Wales, of sections 17, 24 and 25 of the Police and Criminal Evidence Act 1984 (which confer power to arrest without warrant and to enter premises for the purpose of making an arrest) or of section 3 of the Criminal Law Act 1967<sup>(9)</sup> (use of force in making arrest etc).

### **Power to require other persons to promote searches**

**15.**—(1) For purposes to which this Part of the Order applies, the Secretary of State may give a direction in writing to any person (other than the Concessionaires) who—

- (a) carries on operations in the tunnel system,
- (b) is permitted to have access to a restricted zone for the purposes of the activities of a business carried on by him,
- (c) is the owner, operator or train manager of any Channel Tunnel train, or
- (d) is the owner, operator or manager of any property used in connection with the operation of any Channel Tunnel train or the tunnel system including any land, building or works, train or other vehicle, apparatus or equipment so used whether it is on board a Channel Tunnel train or, as the case may be, within the tunnel system or elsewhere,

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(9) 1967 c. 58.

requiring him to use his best endeavours to secure that such searches to which this article applies as are specified in the direction are carried out by persons of a description specified in the direction or by constables.

- (2) The searches to which this article applies are—
- (a) in relation to a person falling within sub-paragraph (1)(a) above, searches
    - (i) of any land, building or works which he occupies within the tunnel system, and
    - (ii) of persons or property which may be on that land or in that building or in or on those works;
  - (b) in relation to a person falling within sub paragraph (1)(b) above, searches
    - (i) of any land, building or works which he occupies outside the tunnel system for the purposes of his business, and
    - (ii) of persons or property which may be on that land or in that building or in or on those works;
  - (c) in relation to a person falling within sub paragraph (1)(c) above, searches of the Channel Tunnel train or of any persons or property which may be on that train;
  - (d) in relation to a person falling within sub-paragraph (1)(d) above, searches
    - (i) of any property which he owns, operates or manages in connection with the operation of any Channel Tunnel train or the tunnel system; and
    - (ii) of any persons or property which may be in or on the property.

(3) Where a direction under this article is for the time being in force, then, subject to paragraphs (4) and (5) below, if a person of a description specified in the direction in accordance with this article or a constable has reasonable cause to suspect that an article to which this paragraph applies is in, or may be brought onto or into, any land, building or works, Channel Tunnel train or property mentioned in paragraph (2) above, he may, by virtue of this paragraph and without warrant, search any part of the land, building or works, Channel Tunnel train or property or any vehicle, goods or other moveable property of any description which, or any person who, is for the time being in or on any part of the land, building or works, Channel Tunnel train or property, and for that purpose—

- (a) may enter any land, building or works or property, if need be by force,
- (b) may go on board any Channel Tunnel train and inspect the train,
- (c) may stop any Channel Tunnel train and, for as long as may be necessary for that purpose, prevent it from being moved, and
- (d) may stop any such vehicle, goods, property or person and detain it or him so long as may be necessary for that purpose.

(4) In the case of premises used only as a private dwelling any power to search or enter conferred by paragraph (3) above may not be exercised except—

- (a) under the authority of a warrant issued by a justice of the peace; and
- (b) by a constable who is a member of a body of constables maintained
  - (i) in England, Scotland or Wales by a police authority or an authority which has entered into an agreement with the Police Complaints Authority under section 96(1) of the Police and Criminal Evidence Act 1984; or
  - (ii) in Northern Ireland, by the Police Authority for Northern Ireland or an authority which has entered into an agreement with the Independent Commission for Police Complaints for Northern Ireland under Article 16 of the Police (Northern Ireland) Order 1987(10) .

(5) If, on an application made by a constable, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an article to which paragraph (3) above applies is in any premises used only as a private dwelling, he may issue a warrant authorising a constable to enter and search the premises.

(6) Paragraph (3) above applies to the following articles—

- (a) any firearm or ammunition or any article having the appearance of being a firearm, whether capable of being discharged or not,
- (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive, and
- (c) any article (not falling within either of the preceding sub-paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property, or intended by the person having it with him for such use, whether by him or by any other person.

(7) Where an article to which paragraph (3) above applies is found during a search under this article, it shall be detained or otherwise dealt with in accordance with the requirements specified by the Secretary of State in the direction given under this article.

(8) Any person who—

- (a) without reasonable excuse, fails to comply with a direction given to him under this article or with any requirement specified in the direction referred to in paragraph (7) above, or
- (b) intentionally obstructs a person acting in the exercise of a power conferred on him by paragraph (3) above,

commits an offence.

(9) A person guilty of an offence under paragraph (8) above is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(10) Where a person is convicted of an offence under paragraph (8)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one tenth of level 5 on the standard scale for each day on which the failure continues.

(11) Paragraph (3) above has effect without prejudice to the operation in relation to any offence under this Order—

- (a) in England and Wales, of sections 17, 24 and 25 of the Police and Criminal Evidence Act 1984 (which confer power to arrest without warrant and to enter premises for the purpose of making an arrest) or of section 3 of the Criminal Law Act 1967 (use of force in making arrest etc), or
- (b) in Scotland, of any rule of law relating to the power to arrest without warrant, or
- (c) in Northern Ireland, of Articles 19, 26 and 27 of the Police and Criminal Evidence (Northern Ireland) Order 1989<sup>(11)</sup> or section 3 of the Criminal Law Act (Northern Ireland) 1967<sup>(12)</sup>.

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<sup>(11)</sup> S.I. 1989/1341 (N.I. 12).

<sup>(12)</sup> 1967 c. 18 (N.I.).

**General power to direct measures to be taken for purposes to which Part III applies**

16.—(1) Paragraph (2) below applies to—

- (a) any person who is the owner, operator or train manager of one or more Channel Tunnel trains in the tunnel system or elsewhere within the United Kingdom,
- (b) the Concessionaires,
- (c) any person other than the Concessionaires who carries on operations in the tunnel system,
- (d) any person who is permitted to have access to a restricted zone for the purposes of the activities of a business carried on by him, and
- (e) any person who is the owner, operator or manager of any property used in connection with the operation of any Channel Tunnel train or the tunnel system including any land, building or works, train or other vehicle, apparatus or equipment so used whether it is on board a Channel Tunnel train or, as the case may be, within the tunnel system or elsewhere.

(2) Subject to the following provisions of this article, the Secretary of State may give a direction in writing to any person to whom this paragraph applies requiring him to take such measures for purposes to which this Part of this Order applies as are specified in the direction—

- (a) in the case of a direction given to a person as the owner, operator or train manager of a Channel Tunnel train, in respect of all the trains falling within paragraph (1)(a) above of which (at the time when the direction is given or at any subsequent time) he is the owner, operator or train manager, or in respect of any such trains specified in the direction,
- (b) in the case of a direction given to the Concessionaires, in respect of the tunnel system,
- (c) in the case of a direction given to a person as a person falling within paragraph (1)(c) above, in respect of the operations carried on by him,
- (d) in the case of a direction given to a person as a person who is permitted to have access to a restricted zone as mentioned in paragraph (1)(d) above, in respect of such activities carried on by that person in that zone as are specified in the direction, and
- (e) in the case of a direction given to a person as the owner, operator or manager of any property used in connection with the operation of any Channel Tunnel train or the tunnel system, in respect of all the property falling within paragraph (1)(e) above of which at the time when the direction is given he is the owner, operator or manager, or in respect of any such property as is specified in the direction.

(3) Without prejudice to the generality of paragraph (2) above, the measures to be specified in a direction given under this article to any person to whom that paragraph applies may include the provision by that person of persons charged with the duty (at such times as may be specified in the direction)—

- (a) where the direction is given to a person as the owner, operator or train manager of Channel Tunnel trains, of guarding the trains against acts of violence,
- (b) where the direction is given to the Concessionaires, of guarding the tunnel system, or persons or property (including trains) in any part of the tunnel system, against acts of violence,
- (c) where the direction is given to a person as falling within paragraph (1)(c) above, of guarding against acts of violence any train in the tunnel system which is for the time being under his control,
- (d) where the direction is given to a person as falling within paragraph (1)(d) above, of guarding against acts of violence
  - (i) any land, building or works occupied by him for the purposes of his business, any vehicles or equipment used for those purposes and any goods which are in his possession for those purposes, and

- (ii) any Channel Tunnel train which is for the time being under his control, or
  - (e) where the direction is given to a person as falling within paragraph (1)(e) above, of guarding against acts or violence any property used in connection with the operation of any Channel Tunnel train or the tunnel system.
- (4) A direction given under this article may be either of a general or of a specific character, and may require any measures specified in the direction to be taken at such time or within such period as may be so specified.
- (5) A direction under this article—
- (a) shall not require any search (whether of persons or of property), and
  - (b) shall not require the modification or alteration of any train, or of any of its apparatus or equipment, or the installation or carriage of additional apparatus or equipment, or prohibit any train from being caused or permitted to be put into service or moved without some modification or alteration of the train or its apparatus or equipment or the installation or carriage of additional apparatus or equipment.
- (6) A direction may be given under this article to a person appearing to the Secretary of State to be about to become a person to whom paragraph (2) above applies, but a direction given to a person by virtue of this paragraph shall not take effect until he becomes a person to whom paragraph (2) above applies and, in relation to a direction so given, the preceding provisions of this article shall apply with the necessary modifications.
- (7) Any person who—
- (a) without reasonable excuse, fails to comply with a direction given to him under this article, or
  - (b) intentionally interferes with any building constructed or other works executed on any land in compliance with a direction under this article or with anything installed on, under, over or across any land in compliance with such a direction,
- commits an offence.
- (8) A person guilty of an offence under paragraph (7) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (9) Where a person is convicted of an offence under paragraph (7)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one tenth of level 5 on the standard scale for each day on which the failure continues.
- (10) The ownership of any property shall not be affected by reason only that it is placed on, in or under, or affixed to, any land, building or works in compliance with a direction under this article.

### *Supplemental provisions with respect to directions*

#### **Matters which may be included in directions under articles 13 to 16.**

**17.—**(1) A direction under paragraph (1) of article 13 or under article 14 or 15 of this Order may specify the minimum number of persons by whom any search to which the direction relates is to be carried out, the qualifications which persons carrying out any such search are to have, the manner in which any such search is to be carried out, and any apparatus, equipment or other aids to be used for the purpose of carrying out any such search.

(2) A direction under paragraph (2) of article 13 of this Order may specify the qualifications required to be had by persons carrying out any modifications or alterations, or the installation of any additional apparatus or equipment, to which the direction relates.

(3) A direction under article 16 of this Order may specify—

(a) the minimum number of persons to be employed for the purposes of any measures required by the direction to be taken by the person to whom it is given, and the qualifications which persons employed for those purposes are to have, and

(b) any apparatus, equipment or other aids to be used for those purposes.

(4) Where a direction under any of the preceding provisions of this Part of this Order requires searches to be carried out, or other measures to be taken, by constables, the direction may require the person to whom it is given to inform the chief officer of police for the police area in which the searches are to be carried out or the other measures taken that the Secretary of State considers it appropriate that constables should be duly authorised to carry, and should carry, firearms when carrying out the searches or taking the measures in question.

(5) Nothing in paragraphs (1) to (4) above shall be construed as limiting the generality of any of the preceding provisions of this Part of this Order.

(6) In this article “qualifications” includes training and experience.

(7) In the application of this article to Northern Ireland for the words in paragraph (4) above from “chief officer” to “measures taken” there are substituted the words “chief constable of the Royal Ulster Constabulary”.

### **Limitations on scope of directions under articles 13 to 16**

**18.**—(1) Without prejudice to articles 14(7), 15(7) and 17(4) of this Order, a direction shall not require or authorise any person to carry a firearm.

(2) A direction (except in so far as it requires any building or other works to be constructed, executed, altered, demolished or removed) shall not be construed as requiring or authorising the person to whom the direction was given, or any person acting as his employee or agent, to do anything which, apart from the direction, would constitute an act of violence; but nothing in this paragraph shall restrict the use of such force as is reasonable in the circumstances (whether at the instance of the person to whom the direction was given or otherwise) by a constable, or its use by any other person in the exercise of a power conferred by article 14(3) or 15(3) of this Order.

(3) In so far as a direction given to the Concessionaires or to any person mentioned in article 16(1)(c), (d) or (e) of this Order requires a building or other works to be constructed, executed, altered, demolished or removed on land outside the tunnel system, or requires any other measures to be taken on such land, the direction shall not confer on the person to whom it is given any rights as against a person having—

(a) an interest in that land, or

(b) a right to occupy that land, or

(c) a right restrictive of its use;

and accordingly, the direction shall not be construed as requiring the person to whom it is given to do anything which would be actionable at the suit or instance of a person having such interest or right in his capacity as a person having that interest or right.

(4) Nothing in this article shall be construed as derogating from any exemption or immunity of the Crown in relation to the provisions of this Part of the Order.

(5) In this article “direction” means a direction under article 13, 14, 15 or 16 of this Order.

### **General or urgent directions under articles 13 to 16**

**19.**—(1) A direction given to any person under article 13, 14, 15 or 16 of this Order need not be addressed to that particular person, but may be framed in general terms applicable to all persons to whom such a direction may be given or to any class of such persons to which that particular person belongs.

(2) If it appears to the Secretary of State that an exception from any direction given under any of those articles is required as a matter of urgency in any particular case he may, by a notification given (otherwise than in writing) to the person for the time being subject to the direction, authorise that person to disregard the requirements of the direction—

(a) in relation to such Channel Tunnel trains or class of Channel Tunnel trains, in relation to the tunnel system or such part of the tunnel system, in relation to such land, building or works outside the tunnel system, in relation to such activities or in relation to such persons or property or such description of persons or property, and

(b) on such occasion or series of occasions, or for such period,

as he may specify; and the direction shall have effect in that case subject to any exceptions so specified.

(3) Any notification given to any person under paragraph (2) above with respect to any direction shall cease to have effect (if it has not already done so)—

(a) if a direction in writing is subsequently given to that person varying or revoking the original direction, or

(b) if no such direction in writing is given within the period of thirty days beginning with the date on which the notification was given, at the end of that period.

(4) Any notification given under paragraph (2) above shall be regarded as given to the person to whom it is directed if it is given—

(a) to any person authorised by that person to receive any such direction or notification,

(b) where that person is a body corporate, to the secretary, clerk or similar officer of the body corporate, and

(c) in any other case, to anyone holding a comparable office or position in that person's employment.

### **Objections to certain directions under article 16**

**20.**—(1) This article applies to any direction given under article 16 of this Order which—

(a) requires a person to take measures consisting of or including the construction, execution, alteration, demolition or removal of a building or other works, and

(b) does not contain a statement that the measures are urgently required and that accordingly the direction is to take effect immediately.

(2) At any time before the end of the period of thirty days beginning with the date on which a direction to which this article applies is given, the person to whom the direction is given may serve on the Secretary of State a notice in writing objecting to the direction, on the grounds that the measures specified in the direction, in so far as they relate to the construction, execution, alteration, demolition or removal of a building or other works—

(a) are unnecessary and should be dispensed with, or

(b) are excessively onerous or inconvenient and should be modified in a manner specified in the notice.

(3) Where the person to whom such a direction is given serves a notice under paragraph (2) above objecting to the direction, the Secretary of State shall consider the grounds of the objection and, if



so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and shall then serve on the objector a notice in writing either—

- (a) confirming the direction as originally given, or
- (b) confirming it subject to one or more modifications specified in the notice under this paragraph, or
- (c) withdrawing the direction;

and the direction shall not take effect until it has been confirmed (with or without modification) by a notice served under this paragraph.

### **Enforcement notices**

**21.**—(1) Where an authorised person is of the opinion that any person has failed to comply with any general requirement of a direction given to him under article 13, 14, 15 or 16 of this Order, the authorised person may serve on that person a notice (in this Order referred to as an “enforcement notice”)—

- (a) specifying those general requirements of the direction with which he has, in the opinion of the authorised person, failed to comply, and
- (b) specifying, subject to article 22 of this Order, the measures that ought to be taken in order to comply with those requirements.

(2) For the purposes of this article a requirement of a direction given by the Secretary of State under article 13, 14, 15 or 16 of this Order is a “general requirement” if the provision imposing the requirement—

- (a) has been included in two or more directions given to different persons (whether or not at the same time), and
- (b) is framed in general terms applicable to all the persons to whom those directions are given.

(3) If an enforcement notice is served under this article on the owner or operator of any Channel Tunnel train, then (whether or not that service is effected by virtue of article 36(6) of this Order)

an authorised person may serve on the train manager—

- (a) a copy of the enforcement notice and of the direction to which it relates, and
- (b) a notice stating that the train manager is required to comply with the enforcement notice,

and if he does so, articles 23, 24 and 25 of this Order shall have effect as if the enforcement notice had been served on him as well as on the owner or operator of the train.

### **Contents of enforcement notices**

**22.**—(1) An enforcement notice may specify in greater detail measures which are described in general terms in those provisions of the direction to which it relates which impose general requirements, but may not impose any requirement which could not have been imposed by a direction given by the Secretary of State under the provision under which the direction was given.

(2) An enforcement notice may be framed so as to afford the person on whom it is served a choice between different ways of complying with the specified general requirements of the direction.

(3) Subject to paragraph (4) below, an enforcement notice which relates to a direction given under article 13 of this Order must require the person to whom the direction was given not to cause or permit things to be done as mentioned in paragraphs (1)(a) or (b) or (2) of that article, as the case requires, until the specified measures have been taken.

(4) In serving an enforcement notice which relates to a direction under article 13(2) of this Order, the authorised person shall allow, and shall specify in the notice, such period as appears to him to be reasonably required for taking the measures specified in the notice; and the notice shall not take effect before the end of the period so specified.

(5) An enforcement notice which relates to a direction given under articles 14, 15 or 16 of this Order must either—

- (a) require the person to whom the direction was given to take the specified measures within a specified period which
  - (i) where the measures consist of or include the construction, execution, alteration, demolition or removal of a building or other works, must not be less than thirty days beginning with the date of service of the notice, and
  - (ii) in any other case, must not be less than seven days beginning with that date; or
- (b) require him not to do specified things, or cause or permit specified things to be done, until the specified measures have been taken.

(6) Subject to article 25(2) of this Order, an enforcement notice requiring a person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

#### **Offences relating to enforcement notices**

**23.**—(1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(2) Where a person is convicted of an offence under paragraph (1) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one tenth of level 5 on the standard scale for each day on which the failure continues.

(3) Any person who intentionally interferes with any building constructed or other works executed on any land in compliance with an enforcement notice or with anything installed on, under, over or across any land in compliance with such a notice is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

#### **Objections to enforcement notices**

**24.**—(1) The person on whom an enforcement notice is served may serve on the Secretary of State a notice in writing of his objection to the enforcement notice, specifying the grounds of the objection.

(2) Any notice of objection under paragraph (1) above must be served—

- (a) where the enforcement notice specifies measures falling within article 22(5)(a)
  - (i) of this Order, before the end of the period of thirty days beginning with the date on which the enforcement notice was served, or
- (b) in any other case, before the end of the period of seven days beginning with that date.

(3) The grounds of objection to an enforcement notice are—

- (a) that the general requirements of the direction which are specified in the notice for the purposes of article 21(1)(a) of this Order have been complied with,

- (b) that the notice purports to impose a requirement which could not have been imposed by a direction given under the provision under which the direction to which the notice relates was given, or
  - (c) that any requirement of the notice—
    - (i) is unnecessary for complying with the general requirements specified as mentioned in sub-paragraph (a) above and should be dispensed with, or
    - (ii) having regard to the terms of those general requirements, is excessively onerous or inconvenient and should be modified in a manner specified in the notice of objection under paragraph (1) above.
- (4) Where the person on whom an enforcement notice is served serves a notice under paragraph (1) above objecting to the enforcement notice, the Secretary of State shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and shall then serve on the objector a notice in writing either—
- (a) confirming the enforcement notice as originally served, or
  - (b) confirming it subject to one or more modifications specified in the notice under this paragraph, or
  - (c) cancelling the enforcement notice.
- (5) An enforcement notice to which an objection has been made under paragraph (1) above—
- (a) if it contains such a requirement as is mentioned in article 22(3) or (5)(b) of this Order, shall continue to have effect as originally served until it has been cancelled, or it has been confirmed subject to modification by a notice under paragraph (4) above, and
  - (b) in any other case, shall not take effect until it has been confirmed (with or without modification) by a notice under paragraph (4) above.

#### **Enforcement notices: supplementary**

- 25.**—(1) An enforcement notice served on any person—
- (a) may be revoked by a notice served on him by an authorised person, and
  - (b) may be varied by a further enforcement notice.
- (2) Articles 17 and 18 of this Order apply to an enforcement notice as they apply to the direction to which the notice relates.
- (3) The ownership of any property shall not be affected by reason only that it is placed on or under or affixed to, any land, building or works in compliance with an enforcement notice.
- (4) Where an authorised person has served an enforcement notice specifying the general requirements of a direction with which the person on whom it is served has, in the opinion of the authorised person, failed to comply, the person on whom the notice is served shall not be taken, for the purposes of article 13(8), 14(8), 15(8) or 16(7) of this Order, to have failed to comply with the direction by reason of the matters specified in the notice.
- (5) Paragraph (4) above does not apply in relation to any proceedings commenced before the service of the enforcement notice.
- (6) Where an enforcement notice has been served in relation to a direction, the fact that the notice specifies certain general requirements of the direction as those with which the person on whom the notice is served has, in the opinion of the authorised person, failed to comply shall not in any proceedings be evidence that any other requirement of the direction has been complied with.
- (7) In this article “direction” means a direction under article 13, 14, 15 or 16 of this Order.

### **Operation of directions under Part III in relation to other rights and duties**

**26.**—(1) In paragraph (2) below references to a direction are references to a direction under article 13, 14, 15 or 16 of this Order as the direction has effect subject to any limitation imposed on its operation—

- (a) by article 18 of this Order, or
- (b) by any exemption or immunity of the Crown;

and any reference in those articles to compliance with a direction is a reference to compliance with it subject to any limitation so imposed.

(2) In so far as a direction requires anything to be done or not done, the direction shall have effect notwithstanding anything contained in any contract (whether a United Kingdom contract or not) or contained in, or having effect by virtue of, any Act or any rule of law; and accordingly no proceedings (whether civil or criminal) shall lie against any person in any United Kingdom court by reason of anything done or not done by him or on his behalf in compliance with a direction.

(3) Paragraphs (1) and (2) above have effect in relation to an enforcement notice as they have effect in relation to a direction under article 13, 14, 15 or 16 of this Order.

(4) In this article “United Kingdom court” means a court exercising jurisdiction in any part of the United Kingdom under the law of the United Kingdom or of part of the United Kingdom, and “United Kingdom contract” means a contract which is either expressed to have effect in accordance with the law of the United Kingdom or of part of the United Kingdom or (not being so expressed) is a contract the law applicable to which is the law of the United Kingdom or of part of the United Kingdom.

### **Detention of Channel Tunnel trains**

**27.**—(1) Where an authorised person is satisfied that the owner, operator or train manager of a Channel Tunnel train has failed to comply with—

- (a) a direction given to him under article 13, 14, 15 or 16 of this Order in respect of that train, or
- (b) an enforcement notice which has been served on him in respect of that train and which relates to such a direction,

and the authorised person certifies in writing to that effect, stating particulars of the non compliance, the train may be detained until the authorised person otherwise directs.

(2) Where the authorised person does not himself detain the train, he shall deliver the certificate to the officer detaining the train.

(3) On detaining the train, the authorised person or other officer shall deliver to the train manager of the train a copy of the certificate.

### **Inspection of Channel Tunnel trains and the tunnel system**

**28.**—(1) For the purpose of enabling the Secretary of State to determine whether to give a direction to any person under any of articles 13 to 16 of this Order, or of ascertaining whether any such direction or any enforcement notice is being or has been complied with, an authorised person shall have power, on production (if required) of his credentials, to inspect—

- (a) any Channel Tunnel train,
- (b) any part of the tunnel system, or
- (c) any land, building or works outside the tunnel system which is occupied for the purposes of a business by a person who
  - (i) carries on (or appears to the authorised person to be about to carry on) operations in the tunnel system for the purposes of that business,

- (ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a restricted zone for the purposes of the activities of that business, or
- (iii) carries on (or appears to the authorised person to be about to carry on) operations outside the tunnel system in connection with the operation of Channel Tunnel trains or the tunnel system or persons or goods to be carried in or on any Channel Tunnel train.

(2) An authorised person inspecting a Channel Tunnel train or any part of the tunnel system or any land, building or works outside the tunnel system under paragraph (1) above shall have power—

- (a) to subject any property found by him on the train (but not the train itself or any apparatus or equipment installed in it) or, as the case may be, to subject that part of the tunnel system or any property found by him there or on that land or in that building or in or on those works, to such tests,
- (b) to take such steps
  - (i) to ascertain what practices or procedures are being followed in relation to security, or
  - (ii) to test the effectiveness of any practice or procedure relating to security, or
- (c) to require the owner, operator or train manager of the train, the Concessionaires or, as the case may be, the occupier of the land, building or works to furnish to him such information,

as the authorised person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to paragraph (4) below, an authorised person, for the purpose of exercising any power conferred on him by paragraph (1) or (2) above in relation to a Channel Tunnel train, in relation to the tunnel system or in relation to any land, building or works outside the tunnel system shall have power—

- (a) for the purpose of inspecting a train, to go on board it and to take all such steps as are necessary to ensure that it is not moved, or
- (b) for the purpose of inspecting any part of the tunnel system, to enter any building or works in the tunnel system or enter upon any land in the tunnel system, or
- (c) for the purpose of inspecting any land, building or works outside the tunnel system to enter upon the land and to enter any building or works on the land.

(4) The powers conferred by paragraph (3) above shall not include power for an authorised person to use force for the purpose of going on board any train, entering any building or works or entering upon any land.

(5) The powers conferred by paragraphs (1) to (3) above shall not apply in the case of premises used only as a private dwelling.

(6) Any person who—

- (a) without reasonable excuse, fails to comply with a requirement imposed on him under paragraph (2)(c) above, or
- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,

commits an offence.

(7) A person guilty of an offence under paragraph (6) above is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

### ***Offences relating to security of Channel Tunnel trains and the tunnel system***

#### **False statements relating to goods etc**

- 29.**—(1) Subject to paragraph (3) below, a person commits an offence if—
- (a) in relation to any goods (whether belonging to him or to another) that are intended for carriage by a Channel Tunnel train, and
  - (b) to—
    - (i) any of the persons mentioned in paragraph (2) below,
    - (ii) any employee or agent of such a person in his capacity as employee or agent, or
    - (iii) a constable,

he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

- (2) The persons referred to in paragraph (1)(b)(i) above are—
- (a) the Concessionaires,
  - (b) the owner, operator or train manager of any Channel Tunnel train,
  - (c) any person who—
    - (i) is permitted to have access to a restricted zone for the purposes of the activities of a business carried on by him, and
    - (ii) has control in that restricted zone over the goods to which the statement relates, and
  - (d) any freight forwarder who is included on the list of security approved Channel Tunnel freight forwarders maintained by the Secretary of State pursuant to article 33 of this Order.

(3) Paragraph (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by article 28(2)(b) of this Order.

(4) A person guilty of an offence under paragraph (1) above is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **False statements in connection with identity documents**

- 30.**—(1) Subject to paragraph (4) below, a person commits an offence if—
- (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this paragraph applies, or
  - (b) in connection with the continued holding by him or another of any such document which has already been issued,

he makes to any of the persons specified in paragraph (3) below, to any employee or agent of such a person or to a constable, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a constable, a statement which is false in a material particular.

(2) Paragraph (1) above applies to any identity document which is to be or has been issued by any of the persons specified in paragraph (3) below in accordance with arrangements the maintenance of which is required by a direction given by the Secretary of State under article 16 of this Order.

- (3) The persons referred to in paragraph (1) above are—
- (a) the Concessionaires,
  - (b) the owner, operator or train manager of any Channel Tunnel train,

(c) any person who is permitted to have access to a restricted zone for the purposes of the activities of a business carried on by him, and

(d) any freight forwarder who is included on the list of security approved Channel Tunnel freight forwarders maintained by the Secretary of State pursuant to article 33 of this Order.

(4) Paragraph (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by article 28(2)(b) of this Order.

(5) A person guilty of an offence under paragraph (1) above is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Unauthorised presence in restricted zone**

**31.**—(1) A person shall not—

(a) go, with or without a vehicle, onto or into any part of a restricted zone except with the permission of the person in control of the restricted zone or a person acting on behalf of that person and in accordance with any conditions subject to which that permission is for the time being granted, or

(b) remain in any part of such a restricted zone after being requested to leave by the person in control or a person acting on behalf of that person or by a constable.

(2) Paragraph (1)(a) above does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.

(3) A person who contravenes paragraph (1) above without lawful authority or reasonable excuse is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A constable or the person in control of the restricted zone, using such force as is reasonable in the circumstances, may remove from the restricted zone a person who contravenes paragraph (1) (b) above.

(5) In this article the “person in control of the restricted zone” means in the case of a restricted zone of the tunnel system, the Concessionaires and in the case of any other restricted zone, the owner, occupier or manager of the land, building or works constituting the restricted zone.

### **Offences relating to authorised persons**

**32.**—(1) A person who—

(a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under this Part of this Order, or

(b) falsely pretends to be an authorised person,

commits an offence.

(2) A person guilty of an offence under paragraph (1)(a) above is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(3) A person guilty of an offence under paragraph (1)(b) above is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### ***Channel Tunnel freight forwarders***

#### **Channel Tunnel freight forwarders**

33.—(1) For the purposes for which this Part of this Order applies, the Secretary of State may maintain a list of Channel Tunnel freight forwarders (hereinafter called “the list of security approved Channel Tunnel freight forwarders”) who are approved by him for purposes related to the security of Channel Tunnel trains or the tunnel system, or of any property used in connection with the operation of any Channel Tunnel train or the tunnel system, may include the name of a person on that list on application being made to him in accordance with the provisions of Schedule 1 to this Order, if he is satisfied as to such matters as are specified in that Schedule, and may remove the name of a person from that list in such circumstances as are so specified.

(2) Any provision of this Part of this Order which applies in relation to persons who are permitted to have access to a restricted zone for the purposes of the activities of a business (including any such provision which creates a criminal offence) shall also apply to Channel Tunnel freight forwarders included on the list of security approved Channel Tunnel freight forwarders but subject to the substitution in sub-paragraph (d) of paragraph (2) of article 16 for the words from “carried on by that person” to the end, of the words “as are specified in the direction and are carried on by that person at any premises where Channel Tunnel freight is handled by him”.

(3) Without prejudice to the generality of articles 13 to 16 of this Order, the exemptions that may be included in any direction given to an owner, operator or train manager of a Channel Tunnel train under any of those articles which requires the carrying out of searches of goods, or the taking of any other measures in relation to goods, include exemptions from such requirements in relation to goods received from any Channel Tunnel freight forwarder included on the list of security approved Channel Tunnel freight forwarders.

### ***General supplemental provisions***

#### **Compensation in respect of certain measures taken under Part III**

34.—(1) The provisions of this article have effect where, in compliance with a direction under article 16 of this Order or in compliance with an enforcement notice, the person to whom the direction was given or on whom the notice was served takes any measures consisting of the construction, execution, alteration, demolition or removal of a building or other works on land either within or outside the tunnel system.

(2) If the value of any interest in that land to which a person is entitled is depreciated in consequence of the taking of those measures, or the person having such an interest suffers loss in consequence of them by being disturbed in his enjoyment of any of that land, he is entitled to compensation equal to the amount of the depreciation or loss.

(3) If any land other than the land on which the measures are taken is injuriously affected by the taking of those measures, any person having an interest in that other land who suffers loss in consequence of its being injuriously affected is entitled to compensation equal to the amount of the loss.

(4) Any compensation to which a person is entitled under this article shall be payable to him by the person by whom the measures in question were taken.

(5) The provisions of Schedule 2 to this Order have effect for the purposes of this article and paragraphs (1) to (4) above have effect subject to the provisions of that Schedule.



### **Annual report by Secretary of State as to notices and directions under Part III**

**35.**—(1) The Secretary of State shall, on or before 31 January in each year, lay before each House of Parliament a report stating the number of notices served by him under article 11 of this Order, the number of directions given by him under articles 13, 14, 15 and 16 of this Order and the number of enforcement notices served by authorised persons during the period of twelve months which expired with the preceding December.

(2) Each such report shall deal separately with notices served under article 11 of this Order, directions given under article 13 of this Order, directions given under article 14 of this Order, directions given under article 15 of this Order, directions given under article 16 of this Order, and enforcement notices, and, in relation to each of those matters, shall show separately—

- (a) the number of notices or directions which, during the period to which the report relates, were served on or given to persons as being, or as appearing to the Secretary of State to be about to become, owners, operators or train managers of Channel Tunnel trains,
- (b) the number of notices or directions which during that period were served on or given to the Concessionaires,
- (c) the number of notices or directions which during that period were served on or given to persons as being, or as appearing to the Secretary of State to be about to become, persons carrying on operations in the tunnel system,
- (d) the number of notices or directions which during that period were served on or given to persons as being, or as appearing to the Secretary of State to be about to become, persons permitted to have access to a restricted zone for the purposes of the activities of a business, and
- (e) the number of notices or directions which during that period were served on or given to persons being, or as appearing to the Secretary of State to be about to become, the owners, occupiers or managers of land, building or works used in connection with the operation of any Channel Tunnel train or the tunnel system.

(3) Each such report shall also show separately the number of copies of enforcement notices which during that period were served on train managers of Channel Tunnel trains under article 21(3) of this Order.

### **Service of documents**

**36.**—(1) This article has effect in relation to any notice, any document containing a direction and any other document authorised or required by any provision of this Part of the Order to be served on or given to any person.

(2) Any such document may be given to or served on any person—

- (a) by delivering it to him, or
- (b) by leaving it at his proper address, or
- (c) by sending it by post to him at that address, or
- (d) by sending it to him at that address by telex or other similar means which produce a document containing the text of the communication.

(3) Any such document may, in the case of a body corporate, be given to or served on the secretary, clerk or similar officer of that body.

(4) For the purposes of this article and section 7 of the Interpretation Act 1978(13) (service of documents by post) in its application to this article, the proper address of any person to whom or on whom any document is to be given or served is his usual or last known address or place of business

(whether in the United Kingdom or elsewhere), except that in the case of a body corporate or its secretary, clerk or similar officer it shall be the address of the registered or principal office of that body in the United Kingdom (or, if it has no office in the United Kingdom, of its principal office, wherever it may be).

(5) If the person to or on whom any document mentioned in paragraph (1) above is to be given or served has notified the Secretary of State of an address within the United Kingdom, other than an address determined under paragraph (4) above, as the one at which he or someone else on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this article and section 7 of the Interpretation Act 1978 as his proper address.

(6) Where an enforcement notice is to be served under article 21 of this Order on the owner or operator of a Channel Tunnel train, it shall be treated as duly served on him if it is served on the train manager of the train in question, but (except as provided by article 21(3) of this Order) the train manager shall not be obliged by virtue of this paragraph to comply with the notice.

(7) Any document mentioned in paragraph (1) above shall, where there are two or more owners or operators of a Channel Tunnel train or owners, occupiers or managers of any property, be treated as duly served on each of those owners, operators, occupiers or managers if served on any one of them.

(8) Where any document mentioned in paragraph (1) above is to be served (for the purposes of paragraph (6) above or otherwise) on the train manager of a train it shall be treated as duly served if it is left on board that train with the person being or appearing to be in command or charge of the train.

## PART IV GENERAL

### **Offences by bodies corporate**

**37.**—(1) Where an offence under this Order has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### **Minor and consequential amendments**

**38.** The enactments mentioned in Schedule 3 to this Order have effect subject to the minor and consequential amendments specified in that Schedule.

4th March 1994

*John MacGregor*  
Secretary of State for Transport

SCHEDULE 1

Article 33

PROVISIONS RELATING TO THE LIST OF SECURITY  
APPROVED CHANNEL TUNNEL FREIGHT FORWARDERS

**Application for listing as a security approved Channel Tunnel freight forwarder**

1.—(1) A person may apply to the Secretary of State to be included on the list of security approved Channel Tunnel freight forwarders, and such application shall include the following information relating to the applicant:

- (a) where the applicant is a body required by law to be registered by the registrar of companies, the name, registered number and registered office of the body;
- (b) where the applicant is an association or partnership not required by law to be so registered, the full name of each member of the association or of each partner in the partnership, and the name of the association or partnership, as the case may be;
- (c) where the applicant is a sole proprietor, the full name of the proprietor;

together with the additional information specified in sub-paragraph (2) below.

(2) The additional information referred to in sub paragraph (1) is:

- (a) the applicant's trading name, if different from the name given under sub-paragraph (1) above;
- (b) the applicant's VAT registration number, if any;
- (c) the telephone number, facsimile number if any, and address of the principal office, and of all the premises where relevant goods are handled by the applicant;
- (d) where the applicant is not a sole proprietor, the name, telephone number, facsimile number if any, and address within the United Kingdom of an individual who will accept on behalf of the applicant any written or verbal communication (including any document mentioned in article 36(1) of this Order) from the Secretary of State relating to Channel Tunnel freight business;
- (e) the number of staff engaged by the applicant in the handling of Channel Tunnel freight;
- (f) the number of staff engaged by the applicant in security duties;
- (g) details of any criminal convictions under this Order of:
  - (i) the applicant;
  - (ii) any staff employed or to be employed by the applicant on Channel Tunnel freight business;
  - (iii) where the applicant is a body corporate, any director or secretary of that body; and
  - (iv) where the applicant is an unincorporated association or partnership, any member of the association or partner in the partnership.

**Requirements for inclusion on the list of security approved Channel Tunnel freight forwarders**

2. The Secretary of State may include an applicant on the list of security approved Channel Tunnel freight forwarders only if he is satisfied as to each of the following matters:

- (a) that the applicant's business includes or will include Channel Tunnel freight business;
- (b) that the applicant has delivered to him a description of the applicant's current security procedures and measures in relation to Channel Tunnel freight, and that in the Secretary

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of State's opinion those procedures and measures are reasonable for the purposes to which Part III of this Order applies;

- (c) that the applicant has made adequate arrangements to ensure that all parts of premises where the applicant handles Channel Tunnel freight, after he has satisfied himself that it contains no article referred to in article 14(6)(b) of the Order, are physically secure and have appropriate controls on access; and
- (d) that the applicant would be able to comply with any directions which may be given to him by the Secretary of State under article 15 or 16 of this Order.

#### **Notice of inclusion on the list of security approved Channel Tunnel freight forwarders**

3. Where the Secretary of State decides to include an applicant on the list of security approved Channel Tunnel freight forwarders, he shall give notice to the applicant of his decision and of the date on which the applicant was placed on such list.

#### **Notice of proposal not to include an applicant on the list of security approved Channel Tunnel freight forwarders**

4.—(1) Where the Secretary of State proposes not to include an applicant on the list of security approved Channel Tunnel freight forwarders, he shall give notice to the applicant of such proposal and of the reasons for it.

(2) The applicant may make representations to the Secretary of State within 28 days from the date of the Secretary of State's notice under sub paragraph (1) above.

(3) The Secretary of State shall take into account any representations made under sub paragraph (2) above before reaching a decision as to the inclusion of the applicant on the list.

(4) Where the Secretary of State decides not to include the applicant on the list, he shall give notice to the applicant of his decision and of the reasons for it.

(5) Any applicant whom the Secretary of State decides not to include on the list of security approved Channel Tunnel freight forwarders may not re apply for such inclusion until after the expiry of the period of three months beginning with the date of the Secretary of State's notice under sub paragraph (4) above.

#### **Notice of information being rendered inaccurate by a change in circumstances**

5. A security approved Channel Tunnel freight forwarder shall give notice to the Secretary of State if at any time any information provided to the Secretary of State in pursuance of sub paragraphs (1), (2)(a), (c), (d) or (g) of paragraph 1 above is rendered inaccurate by any change of circumstances, and shall give such notice to the Secretary of State within 7 days of such change occurring.

#### **Removal from the list of security approved Channel Tunnel freight forwarders**

6.—(1) If at any time it appears to the Secretary of State that:

- (a) a person included on the list of security approved Channel Tunnel freight forwarders no longer carries on Channel Tunnel freight business;
- (b) a person included on the list of security approved Channel Tunnel freight forwarders is no longer able or has failed to comply with any direction given to him article 15 or 16 of this Order (whether or not he has been prosecuted);
- (c) three years have elapsed from the date of a person first being placed on the list of security approved Channel Tunnel freight forwarders, or from the last three yearly anniversary of

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that date, or from the last occasion of a person being placed on the list (whichever is the later), and he has not applied at least 42 days previously to remain on the list;

- (d) in providing any information required pursuant to paragraph 1 above, a person has made a statement which is false in a material particular;
- (e) a person is in breach of paragraph 5 above; or
- (f) there is any good reason for a person to be removed from the list;

the Secretary of State may, subject to sub paragraph (2) below, remove that person from the list of security approved Channel Tunnel freight forwarders.

(2) Where the Secretary of State proposes to remove a person from the list for a reason specified in sub paragraph (1) above, he shall give notice to the person of his proposal and of the reasons for it and, where such a notice is given:

- (a) the person may make representations to the Secretary of State within 28 days from the date of such notice;
- (b) the Secretary of State shall take into account any representations so made before reaching a decision as to the removal of the person from the list; and
- (c) the Secretary of State shall give notice to the person of his decision to remove him from the list and of the reasons for it, or of his decision to retain him on the list, as the case may be.

(3) Any person whom the Secretary of State decides to remove from the list for a reason within sub paragraph (1) above other than (c) of that sub-paragraph, may not re apply for such inclusion until after the expiry of the period of three months beginning with the date of the Secretary of State's notice under sub paragraph (2)(c) above.

(4) The Secretary of State shall remove a person from the list upon being requested in writing to do so by that person.

7. In this Schedule "registrar of companies" means the registrar or other officer performing under the Companies Act 1985<sup>(14)</sup> the duty of registration of companies in England and Wales or in Scotland, or the registrar of companies appointed under Article 653 of the Companies (Northern Ireland) Order 1986<sup>(15)</sup>, as the case may require.

## SCHEDULE 2

## Article 34 PROVISIONS RELATING TO COMPENSATION

1. This Schedule applies to compensation under article 34 of this Order (in this Schedule referred to as "the principal article").

2. No compensation to which this Schedule applies shall be payable unless the person to whom it is payable in accordance with the principal article (or in accordance with regulations made under paragraph 5 below) serves on the person by whom the measures in question were taken a notice in writing claiming compensation under that article, and that notice is served before the end of the period of two years from the completion of the measures.

3. In relation to any measures taken by any person on land outside the tunnel system, any reference in the principal article to a direction or enforcement notice, or to compliance with a direction or enforcement notice, is to be construed as if paragraph (3) of article 18 of this Order were omitted.

4. In calculating value for any of the purposes of the principle article—

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(14) 1985 c. 6.

(15) S.I. 1986/1032 (N.I. 6).

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- (a) rules (2) to (4) of the rules set out in section 5 of the Land Compensation Act 1961<sup>(16)</sup> apply with the necessary modifications, and
  - (b) if the interest to be valued is subject to a mortgage, it is to be treated as if it were not subject to the mortgage.
5. Regulations made by the Secretary of State by statutory instrument may make provision—
- (a) requiring compensation to which this Schedule applies, in such cases as may be specified in the regulations, to be paid to a person other than the person entitled to it in accordance with the principal article,
  - (b) as to the application of any compensation to which this Schedule applies, or any part or it, in cases where the right to claim compensation is exercisable by reference to an interest in land which is subject to a mortgage, or to a rentcharge, or to the trusts of a settlement, or, in Scotland, to a feuduty or ground annual or to the purposes of a trust, or which was so subject at a time specified in the regulations, or
  - (c) as to any assumptions to be made, or matters to be taken into or left out of account, for the purpose of assessing any compensation to which this Schedule applies.
6. A statutory instrument containing regulations made under paragraph 5 above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
7. Any dispute arising under the principal article or under this Schedule, whether as to the right to any compensation or as to the amount of any compensation or otherwise, shall be referred to and determined by the Lands Tribunal.
8. In the application of this Schedule to Scotland—
- (a) the reference in paragraph 4(a) to section 5 of the Land Compensation Act 1961 is to be construed as a reference to section 12 of the Land Compensation (Scotland) Act 1963<sup>(17)</sup>, and
  - (b) the reference in paragraph 7 to the Lands Tribunal is to be construed as a reference to the Lands Tribunal for Scotland.
9. In the application of this Schedule to Northern Ireland—
- (a) the reference in paragraph 4(a) to section 5 of the Land Compensation Act 1961 is to be construed, notwithstanding paragraph 4 of Schedule 1 to the Land Compensation (Northern Ireland) Order 1982<sup>(18)</sup> (which confines the operation of that Order to matters within the legislative competence of the Parliament of Northern Ireland), as a reference to Article 6(1) of that Order, and
  - (b) the reference in paragraph 7 to the Lands Tribunal is to be construed as a reference to the Lands Tribunal for Northern Ireland.
10. In this Schedule “mortgage” includes any charge or lien on any property for securing money or money’s worth, and any heritable security within the meaning of section 9(8) of the Conveyancing and Feudal Reform (Scotland) Act 1970<sup>(19)</sup>.

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<sup>(16)</sup> 1961 c. 33.

<sup>(17)</sup> 1963 c. 51.

<sup>(18)</sup> S.I. 1982/712 (N.I. 9).

<sup>(19)</sup> 1970 c. 35.

SCHEDULE 3

Article 38

MINOR AND CONSEQUENTIAL AMENDMENTS

**The Northern Ireland (Emergency Provisions) Act 1991**

1. In Schedule 1 to the Northern Ireland (Emergency Provisions) Act 1991<sup>(20)</sup> (the scheduled offences) in Part I after paragraph 21 there is inserted—

**“Channel Tunnel (Security) Order 1994 No.**

21A. Offences under the following provisions of the Channel Tunnel (Security) Order 1994—

- (a) Article 4 (hijacking of Channel Tunnel trains);
- (b) Article 5 (seizing or exercising control of the tunnel system).”

**The Suppression of Terrorism Act 1978**

2. In Schedule 1 to the Suppression of Terrorism Act 1978<sup>(21)</sup> (list of offences for the purposes of section 1 of that Act) after paragraph 18B there is inserted—

**“Offences relating to Channel Tunnel trains and the tunnel system**

18C. An offence under Part II of the Channel Tunnel (Security) Order 1994 No. ”

**The Criminal Justice Act 1982**

3. At the end of Part II of Schedule 1 to the Criminal Justice Act 1982<sup>(22)</sup> (statutory provisions excluded from provisions for early release of prisoners) there is inserted—

**“CHANNEL TUNNEL (SECURITY) ORDER 1994 No.**

Article 4 (hijacking of Channel Tunnel trains)

Article 5 (seizing or exercising control of the tunnel system)

Articles 6, 7 and 8 (other offences relating to Channel Tunnel trains or the tunnel system).”

**The Police and Criminal Evidence Act 1984**

4. At the end of Part II of Schedule 5 to the Police and Criminal Evidence Act 1984<sup>(23)</sup> (serious arrestable offences) there is added—

**“Channel Tunnel (Security) Order 1994 No.**

14. Article 4 (hijacking of Channel Tunnel trains).

15. Article 5 (seizing or exercising control of the tunnel system).”

**The Police and Criminal Evidence (Northern Ireland) Order 1989**

5. At the end of Part II of Schedule 5 to the Police and Criminal Evidence (Northern Ireland) Order 1989<sup>(24)</sup> (serious arrestable offences) there is added—

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<sup>(20)</sup> 1991 c. 24.

<sup>(21)</sup> 1978 c. 26; Schedule 1 is amended by paragraph 6 of Schedule 3 to the Aviation and Maritime Security Act 1990.

<sup>(22)</sup> 1982 c. 48; Part II of Schedule 1 is amended by paragraph 7 of Schedule 3 to the Aviation and Maritime Security Act 1990.

<sup>(23)</sup> 1984 c. 60; Part II of Schedule 5 is amended by paragraph 8 of Schedule 3 to the Aviation and Maritime Security Act 1990.

<sup>(24)</sup> S.I. 1989/1341 (N.I. 12); Part II of Schedule 5 is amended by paragraph 11 of Schedule 3 to the Aviation and Maritime Security Act 1990.

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**“Channel Tunnel (Security) Order 1994 No.**

13. Article 4 (hijacking of Channel Tunnel trains).
14. Article 5 (seizing or exercising control of the tunnel system).”

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides for the security of the Channel Tunnel (“the tunnel system” which has the meaning given in section 1(7) of the Channel Tunnel Act 1987 subject to article 2(1)) and of Channel Tunnel trains (as defined in article 2(1)). Part II creates certain offences against the safety of the system and the trains and Part III provides for the protection of Channel Tunnel trains and the tunnel system against acts of violence (as defined in article 10(2)). The Order applies outside the United Kingdom only to the limited extent specified in article 3, that is where article 30 or 38 of the Protocol between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic concerning Frontier Controls and Policing, Cooperation in Criminal Justice, Public Safety and Mutual Assistance Relating to the Channel Fixed Link (Cm 1802) confer jurisdiction on United Kingdom courts. The Order extends to Northern Ireland.

Under article 4 it is an indictable offence subject to life imprisonment to hijack a Channel Tunnel train.

Under article 5 it is an indictable offence subject to life imprisonment to seize the tunnel system or exercise control of it.

Under article 6 it is an indictable offence subject to life imprisonment, unlawfully (as defined in article 2(1)) and intentionally to destroy a Channel Tunnel train or the tunnel system or to destroy any goods on the train or within the system or to damage them so as to endanger, or be likely to endanger, their safety, or to commit on board a Channel Tunnel train or within the tunnel system an act of violence (as defined in paragraph (5)) which is likely to endanger their safety.

Article 7 creates offences subject to life imprisonment in respect of other acts endangering or likely to endanger the safe operation of Channel Tunnel trains or the tunnel system.

Under article 8 it is an indictable offence subject to life imprisonment to make threats of acts which would be offences under article 6(1) or 7(1).

Article 11 confers powers on the Secretary of State to require information in connection with the exercise of his functions under Part III. Under paragraph (6) it is an offence without reasonable excuse to fail to comply with such a requirement or in furnishing information to make false statements in certain circumstances. The offence is subject on summary conviction to a fine up to the statutory maximum and on conviction on indictment to a fine or to imprisonment for a term of up to two years or to both.

Article 12 enables restricted zones (as defined in article 2(1)) to be designated in the tunnel system or outside. Under article 31(3) it is an offence subject on summary conviction to fine of up to level 5 on the standard scale for a person, without lawful authority or reasonable excuse, to go into or onto any part of a restricted zone without the permission of the person in control of it or to remain in any part of the zone after being requested to leave by that person or by a person acting on his behalf



or by a constable. The person in control of the restricted zone or a constable may, using reasonable force, remove the person if he remains after being requested to leave.

Article 13 enables the Secretary of State to give directions in writing to the Concessionaires or to the owners, operators or train managers of Channel Tunnel trains, or a person about to become such a person, imposing restrictions in respect of such trains or requiring modifications or alterations of the train, or of apparatus or equipment installed in or carried on, the train. Under paragraph (8) it is an offence, without reasonable excuse, to fail to comply with a direction under this article subject—

- (a) on summary conviction, to a fine up to the statutory maximum, and
- (b) on conviction on indictment, to a fine or to imprisonment for a term of up to two years or to both.

Under paragraph (9) where a person is convicted of an offence under paragraph (8) a continuing failure, without reasonable excuse, to comply is a further offence for which he is liable on summary conviction to a fine of up to one tenth of level 5 on the standard scale for each day on which the failure continues.

Under article 14 the Concessionaires may be required by the Secretary of State to carry out searches of the tunnel system, of Channel Tunnel trains in the system and persons or property in the system. Where a direction requiring such searches to be carried out is in force, persons of a description specified in the direction or constables, where they have reasonable cause to suspect the presence of certain articles (defined in article 2(1)) such as firearms or explosives (defined in article 2(1)) may enter buildings or works or land (but in the case of premises used only as a private dwelling house only certain constables may enter and only with a warrant granted by a justice of the peace), go on board Channel Tunnel trains and inspect them, stop such trains or any vehicle, goods, property or person and detain them, to effect the search. Under paragraph (8) it is an offence subject—

- (a) on summary conviction, to a fine up to the statutory maximum, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term of up to two years or to both, to fail, without reasonable excuse, to comply with a direction or any requirement in it or intentionally to obstruct a person carrying out a search.

Under paragraph (9) where a person is convicted of an offence under paragraph (8) a continuing failure, without reasonable excuse, to comply is a further offence for which he is liable on summary conviction to a fine of up to one tenth of level 5 on the standard scale for each day on which the failure continues.

There is corresponding provision in article 15 for searches by persons carrying on operations within the tunnel system, by persons permitted to have access to restricted zones for the purposes of their business, by owners, operators or train managers of Channel Tunnel trains or the owners, operators or managers of property used in connection with any Channel Tunnel train or the tunnel system whether the property is within the tunnel system or elsewhere.

Article 16 enables the Secretary of State to give directions for the purposes specified in article 10 to the owners, operators or train managers of Channel Tunnel trains, the Concessionaires, persons carrying on operations within the tunnel system, persons permitted to have access to restricted zones for the purposes of their business and owners, operators or managers of property used in connection with Channel Tunnel trains or the tunnel system, or to persons about to become such persons, including a requirement to guard the trains, the tunnel system, land, buildings, or works or property against acts of violence. Under paragraph (7) a failure, without reasonable excuse, to comply with a direction given under this article, or intentional interference with any building constructed or works executed on land in compliance with a direction or anything installed on, under, over or across any land in compliance with such a direction, is an offence subject—

- (a) on summary conviction, to a fine up to the statutory maximum, or
- (b) on conviction on indictment, to a fine or to imprisonment for up to two years or to both.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Under paragraph (9) where a person is convicted of an offence under paragraph 7(a) a continuing failure to comply is a further offence for which he is liable to a fine of up to one tenth of level 5 on the standard scale for each day on which the failure continues.

Article 17 specifies matters which may be included in directions under articles 13 to 16, article 18 contains limitations on the scope of such directions, article 19 provides for general or urgent directions and article 20 provides for objections to certain directions under article 16.

Articles 21 to 25 provide for the enforcement of a general requirement (as defined in article 21(2)) of a direction by means of an enforcement notice served on the person who has failed to comply.

Under article 23 a person who, without reasonable excuse, fails to comply with an enforcement notice is guilty of an offence subject—

- (a) on summary conviction, to a fine up to the statutory maximum,
- (b) on conviction on indictment, to a fine.

Where a person is convicted of such an offence, a continuing failure, without reasonable excuse, to comply is a further offence for which he is liable on summary conviction to a fine of up to one tenth of level 5 on the standard scale for each day on which the failure continues.

A person who intentionally interferes with any building constructed or other works executed on land or with anything installed on, under, over or across any land, in compliance with an enforcement notice is liable—

- (a) on summary conviction, to a fine up to the statutory maximum;
- (b) on conviction on indictment, to a fine.

Article 27 provides for the detention of Channel Tunnel trains in the event of failure by the owners, operators or train managers to comply with directions under articles 13 to 16 or enforcement notices relating to such directions.

Article 28 provides for the inspection in certain circumstances by persons authorised in writing by the Secretary of State of Channel Tunnel trains, the tunnel system or any land, building or works outside the tunnel system. The powers conferred on the authorised person for the purposes of the inspection include a power to require information, to go on board a Channel Tunnel train and ensure it is not moved, to enter any building or works or upon any land in or outside the tunnel system for those purposes except premises used only as a private dwelling. A person who, without reasonable excuse, fails to comply with the requirement to furnish information or in furnishing information makes a statement which he knows to be false, is guilty of an offence subject—

- (a) on summary conviction, to a fine up to the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for up to two years or to both.

Article 29 deals with false statements relating to goods intended for carriage by a Channel Tunnel train made to certain persons. A person who makes such a statement in relation to any goods intended for carriage by a Channel Tunnel train which he knows to be false or recklessly makes such a statement which is false is guilty of an offence and liable on summary conviction to a fine of up to level 5 on the standard scale.

Article 30 creates an offence subject to the same penalty on summary conviction in the case of a false statement made knowingly or recklessly to certain persons for the purpose of, or in connection with, an application for the issue of, or the continued holding of, an identity document which is to be or has been issued by certain persons in accordance with arrangements required to be maintained by a direction under article 16.

Article 32 creates an offence of intentionally obstructing a person authorised in writing by the Secretary of State for the purposes of Part III of the Order when acting in exercise of his powers subject—

- (a) on summary conviction, to a fine of up to the statutory maximum;

- (b) on conviction on indictment, to a fine or to imprisonment for a term of up to two years or to both.

It also creates an offence of falsely pretending to be such a person subject on summary conviction to a fine of up to level 5 on the standard scale.

Article 33 enables the Secretary of State to maintain a list of Channel Tunnel freight forwarders (defined in article 2(1)) approved by him for purposes related to the security of Channel Tunnel trains or the tunnel system or of any property used in connection with the operation of any Channel Tunnel train or the tunnel system. Schedule 1 lays down the procedure for inclusion on, or removal from, the list. Paragraph (2) applies to Channel Tunnel freight forwarders included on the list any provision of the Order applicable to persons permitted to have access to a restricted zone. Under paragraph (3) goods received from any Channel Tunnel freight forwarder included on the list may be exempted from any direction to an owner, operator or train manager of a Channel Tunnel train under articles 13 to 16 which requires the carrying out of searches of goods or the taking of any other measures relating to goods.

Article 34 and Schedule 2 provides for compensation in respect of certain measures under Part III.

The Secretary of State is to lay an annual report before each House of Parliament as to notices and directions under Part III (article 35).

Article 36 covers the service of documents.

Article 37 deals with offences by bodies corporate.

Article 38 and Schedule 3 deal with minor and consequential amendments.